

**Liberty and Self in the political argument of republicanism, liberalism
and postmodernism**

Duncan Mackenzie Ivison
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Government Department
London School of Economics and Political Science
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Abstract:

This thesis examines the relationship between the concepts of liberty and self in three different contexts - republicanism, liberalism, and post-modernism - all of which are products of particular historical traditions, and which present themselves as alternative 'languages' and practices in political argument today. I attempt to delineate the relation between the self and the concept of liberty within which it operates in each context, and more generally, questions concerning the relationship between personality and polity. The tendency of much recent historical and analytical scholarship when looking at these issues, has been to emphasize the radical differences between the traditions and their conceptual foundations, especially between republicanism and liberalism. Without minimizing the obvious differences, I have sought rather in this thesis to emphasize some important similarities in the way each approaches the issues of agency, liberty, and the role and justification of social arrangements. This entails a distinctive reading of some aspects in the history of the development of republican and liberal political argument, particularly in John Locke. An important theme here is the tension between assumptions of natural liberty and autonomy, and the role of the community and government in constructing, fostering, and disciplining the very autonomy that is presupposed. Arguing that the differing accounts of the relation between liberty and self are, in important ways, constitutive of the debate between 'communitarians' and 'proceduralists', I turn to contemporary Rawlsian liberal political theory to see if we can't stand back from this conventional way of looking at the problem and re-think the relations. [Towards this end I make some remarks on the relation between the history of political thought and (so-called) 'analytical' political theory.] I argue that liberal political theory must be 'perfectionist', though not in the way that communitarians argue, and not in the way that liberals fear. Indeed it must be so if it is to have any chance for success, though 'perfectionism' is a particularly inappropriate way of talking here, and has been taken up too easily and uncritically in the literature. Civic republican practices have something to teach us in this context, though not simply the way they respect the 'negative liberty' of individuals within a scheme of mutually enforcing rights and duties. This leads me in part, to consider how liberalism tries to make transparent elements of not only state coercion, but institutional, social, and non-judicial forms of power which work on, or through, citizens of modern democracies, and how these power relations manifest themselves in modern concepts of liberty, and conceptions of the self. Finally, I consider some aspects of the work of Michel Foucault, particularly a series of lectures and papers he gave on liberalism and 'neo-liberalism' to see if he offers a vantage point (if anything) from which to evaluate our conventional ways of talking about, and acting on, our concepts of liberty and self.

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It was Charles Taylor and James Tully who first inspired and encouraged me to carry on in political theory, and (for better or worse), I am indebted to them for it. James Tully has been of particular help: always interested and supportive, he has remained an important influence ever since I left Montreal. At the LSE my greatest debt has been to John Charvet. He has supervised me from the beginning, and his careful, patient, and meticulous readings and supervisions have never been less than excellent. Brian Barry has cast a critical eye and ear to various drafts and presentations, and gave me the opportunity to expound on my vague formulations in his seminars, with great patience and generosity. I am grateful to he and Anni Parker for their many kindnesses. Janet Coleman was an enthusiastic discussant, and patient listener, when I was struggling to find my way. I am also greatly indebted to all my fellow graduate students, who endured my seminar ramblings and inchoate papers with good humour and sharp, critical acumen. I am especially grateful to Russell Bentley, Robert Dickinson (who also provided superb last minute help), Matt Matravers, Tim Stainton, and James Willson, for reading, or discussing with me, most of what is here: I always learned from them. I would like to acknowledge how much I am indebted to various presentations I have heard, or discussions I have had, in the course of writing this thesis, with Richard Aschraft, John Dunn, Stephen Mulhall, Pasquale Pasquino. Richard Rorty, and Richard Tuck. Robert Dickinson, Tim Stainton, Brendan and Caroline O'Duffy, Dave Powell, Ashley Taggart, and Paula Grasdahl, deserve special mention, for all the good times and good friendship. Diana Irving literally saved me, and though she came in near the end, has made it all seem worthwhile. It would not have been possible without her. My greatest debt is to my mother and father (and Deb and Rob too), and not only for all the usual reasons. Their contribution has been such that I find it hard to express just how much they have been part of these past few years, even though I've been on the other side of the ocean. The thesis is dedicated to them, with love.

Whatever is of worth herein is almost entirely due to all these good people.

Table of Contents

Preface.....	i
Part 1 (<i>Ad fontes</i>).....	6
Introduction.....	7
Chapter 1: Ciceronian Themes.....	20
1.0 Introduction	
1.1 A system of <i>libertas</i> .	
1.2 <i>Ad exterioribus ad interiora</i>	
1.3 What am I now?	
1.4 To stylize a freedom	
Chapter 2: Humanism's change of heart.....	59
2.0 Introduction	
2.1 Forms of Ciceronianism	
2.2 Change of heart: Christian Humanism and the self	
Chapter 3: Machiavelli and Liberty.....	89
3.0 Introduction	
3.1 A Machiavellian world-picture	
3.2 Moral personality and virtuous action	
3.3 Machiavelli and modernity	
Chapter 4: Liberty and virtue.....	127
4.0 Introduction	
4.1 Virtuous structures: Rome, Athens, or Jerusalem?	
4.2 The juridical	
4.3 John Locke, republicanism, and the juridical mode of government	
Chapter 5: John Locke and the government of men.....	197
5.0 Juris-prudence	
5.1 Foundations	
5.2 Be not conformed...	
5.3 Civic liberalism	
Interlude.....	248

Part 2.....	261
-------------	-----

Chapter 6: Michel Foucault: Early and late modern arts of government.....	262
--	-----

6.0 Introduction	
6.1 Anxious questions and the enlightenment	
6.2 Foucault on power - I	
6.3 Foucault on power - II	
6.4 Liberal discipline	

Chapter 7: Liberal conduct.....	319
---------------------------------	-----

7.0 Introduction	
7.1 Natural foundations	
7.2 The personal is political?	
7.3 Liberal circumstances	
7.4 Perfecting liberal autonomy	

Conclusion.....	365
-----------------	-----

Bibliography.....	381
-------------------	-----

'The passage from the state of nature to the civil state produces a truly remarkable change in the individual. It substitutes justice for instinct in his behaviour, and gives his actions a moral basis which formerly was lacking.'

Jean Jacques Rousseau, (*The Social Contract*).

'I don't believe in the old dirges about decadence, the lack of good writers, the sterility of thought, the bleak and foreboding horizon ahead of us. I believe, on the contrary, that our problem is one of overabundance; not that we are suffering from an emptiness, but that we lack adequate means to think all that is happening.'

Michel Foucault, (1980).

Preface

In the last paragraphs of his speech to the *Athénée Royal* in 1819, Benjamin Constant, after having spent the bulk of his time carefully distinguishing between the 'liberty of the ancients' and the 'liberty of the moderns', a distinction which would become a horizon (if not a spectre) hovering over the political theory of the nineteenth and twentieth centuries, moved to summarize his argument:

Therefore, Sirs, far from renouncing either of the two sorts of freedom which I have described to you, it is necessary, as I have shown, to learn to combine the two together...The work of the legislator is not complete when he has simply brought peace to the people. Even when the people are satisfied, there is much left to do. Institutions must achieve the moral education of the citizens. By respecting their individual rights, securing their independence, refraining from troubling their work, they must nevertheless consecrate their influence over public affairs, call them to contribute by their votes to the exercise of power, grant them a right of control and supervision by expressing their opinions; and by forming them through practices for these elevated functions, give them both the desire and the right to discharge these.¹

For the most part, we have concentrated on Constant's distinctions when trying to understand our own concepts and conceptions of liberty, and this plea for the reconstruction of the two sensitivities - in the full glare of the modern condition and not in some blinkered 'appeal to an appeal' of an ancient *polis* - has tended to be ignored, if not ruled out of the conceptual court. Isaiah Berlin's seminal re-statement of the main thrust of Constant's speech in his distinction between 'negative' and 'positive' freedom has nothing of the sociological edge of Constant's observations, nor does it take up the ambiguous tension Constant established between the ancient and modern world-pictures, or even the concern for the juridical framework of modern liberty.² Constant's plea was not for an

1 Benjamin Constant, 'The liberty of the ancients compared with that of the moderns', in B. Fontana ed. *Benjamin Constant: The Political Writings*, Cambridge University Press, 1988, pp. 309-328, at p. 328.

2 Isaiah Berlin, *Four Essays on Liberty*, Oxford University Press, 1969. As is well known, it has been subject to a vast critical literature: see for example, John Gray, 'On negative and positive liberty', *Political Studies*, 28, 1980, pp. 507-26; Charles Taylor, 'What's wrong with negative liberty', in *Philosophy and the Human Sciences: Philosophical Papers 2*, Cambridge University Press, 1985; Gerard MacCallum, 'Negative and Positive Freedom', *The Philosophical Review*, 76, 1967, 312-34. On the importance of constitutional issues for Constant, especially the structure of representative government, see Pasquale Pasquino, 'Emmanuel Sieyès, Benjamin Constant et le 'Gouvernement des Modernes'', *Revue Française*

abjuration of government in favour of the unchallengeable primacy of individual right, or the endless pursuit of private interest, but rather to understand the nature of the times, and the need for greater respect for 'customs...affections [and] the independence of individuals', i.e. for a new 'art of government' suited to the 'progress of civilization'; '[government's] must handle all these issues with a lighter and more prudent hand'.³ But it would be too harsh to say that, strictly speaking, Berlin got anything wrong in his defence of the relation between pluralism and negative liberty, for there is no doubt that he too caught a significant sense of *l'esprit de l'age*, though one we might sense that is now beginning to pass, or at least mutate into something quite different.⁴

However it is not my goal here, nor will it be in the pages that follow, to pursue the debate over the concept of liberty in terms of choosing one concept over another, nor will I try to isolate some linguistically pristine formulation which answers to its 'real' value-free status.⁵ Rather, my interest lies in situating the concept of liberty in three specific forms of political argument - republicanism, liberalism, and postmodernism - all of which are elements of our contemporary discourse as a whole, though each providing a distinct approach and purchase on that discourse from different historical and analytical vantage points.⁶ My other interest lies in the relation between conceptions of liberty and conceptions of self, which as Berlin (and

de Science Politique, 37, 1987, 214-22.

3 Constant 1988, pp. 324, 327; see B. Fontana's helpful 'Introduction', pp. 1-42.

4 Though Berlin saw fit to make certain adjustments to his claims in different contexts; the 1969 edition speaks of the dangers of negative liberty fostering 'great and lasting social evils' such as 'economic individualism and unrestrained capitalist competition', though in the end these dangers were always less pressing than those he identified with positive liberty (pp. xlv-xlvi).

5 For that, see for example, Felix Oppenheim, *Political Concepts: A Reconstruction*, Oxford, Basil Blackwell, 1981; cf. Hillel Steiner, 'Individual Liberty', *Proceedings of the Aristotelian Society*, 1974/5. See the essays in David Miller ed., *Liberty*, Oxford University Press, 1991.

6 Cf. Donald R. Kelley, 'The Private Life of Liberty', in J. Klaitz M. Haltzel (eds.), *Liberty/Liberte: The American and French Experiences*, Baltimore and London, The Woodrow Wilson Centre Press/ Johns Hopkins University Press, 1991, 11-20: 'true "enlightenment" needs memory as well as reason, and "liberty" is serious and complicated enough to deserve critical historical examination as well as political commemoration' (p. 19).

others) have identified, remains a crucial component for any understanding of our philosophical and political uses of liberty, and one which renders any simple linguistic or conceptual analysis either wholly inappropriate, or at least severely under-developed.⁷ In short, I will argue that liberal political theory must be 'perfectionist', though not in the way that communitarians argue, and not in the sense that liberals fear. Indeed it must be so if it is to have any chance of success, though 'perfectionism' is a particularly inappropriate way of talking here, and has been taken up too easily and uncritically in the literature.

The tendency of much recent historical and analytical scholarship when looking at these issues has been to emphasize the radical differences between the traditions and their conceptual foundations, particularly between republicanism and liberalism. Without minimizing the obvious differences, I have sought in this thesis to emphasize some important similarities in the way each approaches the issues of agency, liberty, and the role and justification of social arrangements. This will entail providing a particular reading of certain aspects of the history of republican and liberal political argument, particularly in John Locke. An important theme throughout this discussion (in part 1) will be the tension between the assumptions of natural liberty and autonomy, and the role of the community and government in constructing, fostering, and disciplining this very autonomy. It has become conventional to see the differences between the relation of liberty and self in republicanism and liberalism as embodied in a negative/positive liberty dichotomy, regardless of how the theorists in question themselves understood it. Thus liberals have complained about the teleological tendencies of classical republicanism and its presumption of the essential nature of man being 'political',

7 But see Macallum 1967 for a useful attempt at setting out a minimal conceptual framework (i.e. his triadic relationship, i.e. that an agent is [not] free from x to do [not do, become/not become] y) which any account of freedom has, whatever the content of the ideological or philosophical baggage which accompanies it. Needless to say this is hardly a *conception* of freedom. Cf. Joel Feinberg, *Social Philosophy*, Englewood, Prentice-Hall, 1973, especially pp. 5-14. For a general discussion of these issues, see Tim Gray, *Freedom*, London, MacMillan, 1991.

and republicans have complained about the barren public ethos of liberal citizenship, beholden to only the protection of individual rights and property. Both are caricatures in need of an overhaul.

Recently, historians of classical republicanism, and theorists with a republican bent, have been claiming that *their* republicanism is more user-friendly to the late-modern world than has been thought, precisely because classical republican theorists like Machiavelli had a conception of liberty which was essentially (even 'purely') 'negative'. Combined with a strong claim that this liberty was only protected by preserving the good of the community as a whole, they have argued that this provides an example of a conception of liberty we have either denied could exist, or have banished to (almost) ancient history. I shall examine this claim below, but shall say now that I think this is not only a misleading way of describing the concept of liberty embodied in classical republican theory, but that it misses the really interesting questions about liberal and republican accounts of the relation between liberty and self. Liberal political argument needs more than a reminder that rights must be accompanied by concomitant duties; it needs to be reminded of the importance of the formation and fostering of a specific set of capacities and dispositions necessary for the efficacy of its moral aspirations. In fact, early modern theorists thought a lot about these issues, and this needs to be brought out in order to dissolve the Kantian gloss on the presumption of men's 'natural' liberty and equality which has been read back into the history of liberal political argument.

In part 2, we turn to some of the contemporary variations on the themes of the historical traditions we examine in part 1. One reason for doing so relates to my perception of the relation between (so-called) 'analytical' political theory and the history of political thought, and I discuss this in the introduction to part 1 and the 'Interlude' before part 2. In part 2, I want to argue that the differing accounts of the relation between liberty and self are, in important ways, partly constitutive of

the debate between 'communitarians' and 'proceduralists'. In order to show what is at stake in these arguments, I turn to certain aspects of the work of Michel Foucault to bring these issues into sharper relief. I then turn to the Rawlsian arguments themselves. Another reason for considering the contemporary arguments touches on my opening remarks a few pages back. Along with the overwhelming emphasis on separating modern liberty from the apparent antiquarianism of the 'ancient' tendencies of anti-liberal communitarians, contemporary liberal argument has taken its cue from Kant in seeing autonomy as almost the paradigmatic ethical condition of modernity. For Kant, 'autonomy' denotes an ability and a responsibility to know and will what morality requires of us, and functions as a limiting condition of all of our subjective ends.⁸ The road to autonomy is through self-mastery, where the 'bindingness' of any principle must be such that one can bind oneself to a freely imposed norm. But Kant also realized that this was a difficult stage for individuals to reach, and thus a proper civil constitution was needed to balance out conflicts and encourage people to 'bring what they themselves are in need of'.⁹ Since the ultimate justification of the state for Kant was based on the moral law, the moral rightness of any juridical coercion was unquestionable, and there could never be any grounds for resistance; the remedy for the injustice of egoism was to 'subject the private interest (of the individual) to the public interest...to a discipline (of civil constraint).'¹⁰ The tension between juridical coercion and autonomy remains an important one in contemporary liberal and 'post-modern' political argument, especially with regard to questions of legitimacy and political obligation, and I will touch upon these as well in my consideration of the liberal self and its radical re-working in the hands of Michel Foucault. Thus aside from seeking to outline as best I can the

8 *Groundwork of the Metaphysic of Morals*, ed, H.J. Paton, New York, 1964, pp. 69-70.

9 *Anthropology from a Pragmatic Point of View*, ed Mary J. Gregor, The Hague, Nijhoff, 1974.

10 *Ibid*, p. 329.

relation between the concepts of liberty and self in these different forms of political argument, two general questions I return to here are:

(i) What is the relation between the kind of self presupposed by a theory and the 'actual' selves amongst whom its principles and institutions are set? And (ii) what is the nature of the *practice* of the governing principles of a theory?

Having begun the thesis in the euphoria of the East European popular revolutions of 1989, and ended it amidst the misery of the Balkans and the palpable despair of the populations in the new 'democracies', my sense is that the more we ponder these questions in *both* their historical and analytic complexity, the more we will learn about why the deep moral aspirations of our contemporary political argument so rarely manifest themselves in the world within which we actually live.

Part 1

(Ad fontes)

‘The Commonwealth of learning here is taking a complete holiday; we have all become politicians’.

John Locke to P. Von Limborch, August 7, 1689.

Part 1

Introduction

What makes a historical tradition or set of texts relevant to our contemporary world, to our political concerns and debates? I want to ask this question in a specific sense here, not just regarding a general relevance of history, which would be ridiculous to deny, but in relation to a remarkable resurgence in the history of ideas which claims for itself, at the behest of its self-identified practitioners, not only a defined role within the discipline of political theory (and moral philosophy), but a distinctive and substantial contribution to our current political discourse. This process involves making both the methodology of historical investigation, and the content of these historical narratives, relevant to, and constitutive of, a set of questions with which we are dealing in our own current social and political context. The 'debate', or perhaps more accurately, the relation,¹ between civic republicanism and liberalism is a prominent example of this phenomena, and in fact, could be credited with re-casting the relationship between historical interpretation and political theory in general, or at least in providing a new set of now unavoidable questions with which it must deal. The 'debate' occurs on a number of different levels and in different places, though in part I of this thesis, I shall be concerned with only two aspects: firstly, the two interpretations of the historical lineage of contemporary understandings of liberalism, and secondly (and relatedly), the different claims made on behalf of the idea that specific historical narratives can serve as 'sources' or 'live options' for contemporary politics. Of course, the specific 'sources' I am interested in are the concepts of liberty and self and their relation to each other, within the structure of the three kinds of political argument I sketched in the

1 I qualify 'debate' because it is far from being proved that civic republicanism, especially as it has manifested itself in some contemporary versions of communitarianism, is a *bona fide* alternative to liberalism, or whether it might be more accurately characterized as some kind of internal (or immanent) critique.

preface to this thesis.

I will be dealing with both aspects in detail in the chapters which follow, but I would like to pause here and consider the general contours of the claim that particular concepts or conceptions from the past can serve a function in contemporary debates beyond simply satisfying some antiquarian interest, or at least, in a way different from the conventional understanding of the role of the history of ideas held until, say, the late 1960's.²

An important issue to deal with immediately is incommensurability. Originating in the philosophy of science, this claim implies that different scientific theories over time may be incommensurable with one another because they differ in the concepts they use, have different ways of understanding what counts as evidence, and refer to a completely different set of constitutive terms. It is claimed that this holds for meaning in general, and thus carries over into philosophical theories. In its most radical formulation, different cultures and historic epochs produce different orders of terms and paradigms, and in general, different kinds of 'rationality'. Thus, term T_1 as used in the sixteenth century, cannot be equated in meaning or reference with an equivalent term T_2 we use today; the past is not just a foreign country, it is a different world. Theories do not necessarily contradict each other

2 I certainly do not want to imply that there was a single way of conceiving of the history of ideas until then. I am thinking mainly of the impact of the introduction of the methodological arguments of Quentin Skinner and John Pocock, which has since generated an enormous amount of interest and literature. Skinner, in particular, was attacking a conventional method of understanding the history of political thought, the 'perennial question' approach, for lacking historicity and for having a rather naive understanding of the relation between interpretation and understanding. See J.G.A. Pocock, *Politics, Language, and Time: Essays on Political Thought and History*, Chicago and London, The University of Chicago Press, 1989 (new edition; originally 1971); 'State of the Art', in *Virtue, Commerce, and History*, Cambridge University Press, 1985; and his elegant discussion in 'The concept of a language and *metier d'historien*: some considerations on practice', in Anthony Pagden ed. *The Languages of Political Theory in Early-Modern Europe*, Cambridge University Press, 1987, pp. 19-38. For Professor Skinner's work and a critical discussion see James Tully ed., *Meaning and Context: Quentin Skinner and his Critics*, Cambridge, Polity Press, 1988. I do not want to imply that Pocock's and Skinner's approach to the history of ideas is identical; for important differences see Skinner's discussion of Pocockian languages in Tully 1988, p. 106. A useful discussion of the rise of historiography in political theory and civic humanism in particular, which also makes an acute challenge to its practitioners is found in Don Herzog, 'Some Questions for Republicans', *Political Theory*, 14, 3, 1986, 473-493.

across time, but they exclude each other, and cannot be combined since they do not share a general direction, or even common set of references from which to compare them.³

As has been pointed out by a number of distinguished commentators, as an account of science, the incommensurability thesis is either completely incoherent, or at the very least, wildly exaggerated. For if the thesis was true, it would have to be the case that we could not translate other languages or cultures (including past aspects of our own language and culture) at all. Thus it would be the case that if we could not interpret organisms' noises at all, if we were, in the strongest sense, excluded from their conceptual world, then we would have no grounds for regarding them as 'thinkers, speakers, or even persons'. But as Putnam argues, it just is the case ('a constitutive fact about human experience') that we are able to interpret one another's beliefs, desires, and utterances so that they make some kind of sense. The point is not that translated beliefs come out the same as our own, but that they come out intelligible to us. We can for example, describe the 'scientific' theories of Galileo at considerable length; it would be incoherent to do so and then declare them 'incommensurable'.⁴

However in ruling out strong incommensurability, this is not to say

- 3 See Paul K. Feyerabend, 'On the "meaning" of scientific terms' in *Realism, rationalism and scientific method; Philosophical Papers, Volume 1*, Cambridge University Press, 1981, pp. 97-103; Thomas Kuhn, *The Structure of Scientific Revolutions*, Chicago University Press, 1962. It is interesting to note how the history of ideas has been profoundly influenced by theories imported from the philosophy of science, especially in the case of Pocock's appropriation of Kuhn, who originally borrowed his images from political theory in describing the transition between scientific paradigms as 'revolutionary' activity. See the excellent article by Peter L. Janssen, 'Political Thought as Traditionary Action: The Critical Response to Skinner and Pocock', *History and Theory*, xxiv, 2, 1985, 115-146.
- 4 Hilary Putnam, 'Convention: a theme in philosophy' (see 'Anarchism is self-refuting' for the discussion about incommensurability), in *Realism and Reason: Philosophical Papers, Volume 3*, Cambridge University Press, 1986 (1983), pp. 191-197, especially p. 196: 'Not only do we share objects and concepts with others, to the extent that the interpretative exercise succeeds, but also conceptions of the reasonable, of the natural, and so on. For the whole justification of an interpretative scheme, remember, is that it renders the behaviour of others at least minimally reasonable by our lights. However different our images of knowledge and conceptions of rationality, we share a huge fund of assumptions and beliefs about what is reasonable with even the most bizarre culture that we can succeed in interpreting.' See also his *Reason, Truth, and History*, Cambridge University Press, 1981, p. 114.

that there are some concepts and world views with which we cannot hope to identify, or admit as a possible option for our life now, as we know it.⁵ The process whereby we come to decide that the concept (or world view) T_1 is not a 'live' option or resource for us, is crucial to try and understand, if only vaguely. And here we might introduce a distinction between accounts of rival theories in science, and accounts of different forms of life or cultures. Without placing too much emphasis on the bracketing of science from the social world,⁶ it could be argued that when it comes to admitting viable conceptions of one type or another, especially those which involve ways of organizing or governing our affairs in the world, we rule out of court a number of arguments and concepts on the grounds that they are no longer suitable to *this* world however much they might have been to *that* world. What is important here is the rendering of the argument such that it does not belong to the here and now. This is in significant ways a political argument (which I shall return to below), but not in the way that theorists or political activists might argue about concepts of liberty or justice they all recognize without any real trouble to be culturally viable in the first place. Of course there is an entire genre of argument which is defined by its distance from our world, its 'non-realism' - utopianism. For that reason, utopians (or at least their arguments) occupy a special place in our political discourse which excuses them, for the most part, from dealing necessarily with a world that is obstinately there. It appears then, that we acknowledge two spaces in our understanding; one which deals with our 'actual existing' social

5 The remarks over the next few paragraphs have been influenced by Bernard Williams' 'The Illusion of Saint-Just; Philosophy and the Powers of Interpretation', *London Review of Books*, 13, 16, 1992, pp. 8-10; and his 'Left Wing Wittgenstein', in *Common Knowledge*, 1, 1, 1992, 33-42.

6 Bernard Williams makes a strong distinction between 'the scientific' and 'the ethical'. He claims that in scientific enquiry there should ideally be a convergence on an answer, where the best explanation of the convergence involves the idea that the answer 'represents how things are', that we are guided by the way the world is 'in itself'. In ethical enquiry though, 'there is no such hope'. See *Ethics and the Limits of Philosophy*, Worcester, Fontana Press., 1985, pp. 135, 136, 137. For a strong attack on these distinction, see Richard Rorty, *Objectivism, Relativism, and Truth: Philosophical Papers Volume 1*, Cambridge University Press, Cambridge, 1991, especially Part I.

and political life and the various social, political, and ethical demands therein, and another made up of conceptions, ideals, and world pictures that human beings had, or might have elsewhere, but are not part of *our* social and political space.⁷ Though these conceptions are not incommensurable in the strong sense I outlined above, they are at least in some sense, *alien* to us.

I want to emphasize that in describing these arguments as 'alien' I am not doing so in any absolute way. As Donald Davidson has shown, we are not simply given the beliefs and values of an apparently radically different society, we have to interpret them, and in doing so we are bound to build into our interpretations assumptions about the ways their experience and thoughts resemble ours. This process involves two moves. Firstly, the ability on the part of the interpreters to identify certain behaviour as the 'holding-true' of a sentence, that is, that we see they hold a sentence (or set of sentences) to be true. And secondly, it involves the adoption of a methodological principle - the 'principle of charity' - which implies that our form of life and the one with which we are engaged and trying to understand, overlap to such an extent that the discussion becomes more of an *intracultural* phenomena rather than a *intercultural* one. The values we attribute to them, for example, have to make sense to us as values that human beings might have. As Davidson puts it, 'disagreement and agreement alike are intelligible only against a background of massive agreement'.⁸

Yet even though these forms of life and all their concepts and values are not incommensurable from our own, or even radically unfamiliar, some are without a doubt further away than others. This brings us

⁷ Williams, 1992, p. 8.

⁸ '(T)he more sentences we conspire to accept or reject (whether or not through a medium of interpretation), the better we understand the rest, whether or not we agree about them'. Thus, 'charity' is a condition of having a 'workable theory' and is 'forced on us'. See Donald Davidson, 'Radical Interpretation' (Essay 9) and 'On the Very Idea of a Conceptual Scheme' (Essay 13), in *Inquiries into Truth and Interpretation*, Oxford, Oxford University Press, 1986, pp.125-139, 183-198, at p. 137. See the interesting discussion of this principle by Richard Rorty, 1991, pp. 93-110, pp.103-110 in particular ('Inquiry as recontextualization: An anti-dualist account of interpretation').

back to the two spaces in our understanding which I mentioned above. There can be no thick line drawn between the two, and we only have to look in the most superficial way at history to see how concepts survive, get dropped, changed, recalled, and recast, to know that there is a certain amount of inherent fluidity. What is the process by which we place (or just find) a concept or form of life in the dead letter office of that second social space? Here I would like to adapt a useful distinction Bernard Williams makes between 'real' and 'notional' confrontations. A real confrontation between two divergent outlooks occurs when there is a group of people for whom each of the outlooks is a real option. A notional confrontation occurs when people know about two divergent outlooks, but at least one of the outlooks is not a real option. What makes an option 'real' is if it is already their outlook, or if they could go over to it, and they could only go over to it if they could 'live inside it in their actual historical circumstances'.⁹ This last qualification is rather vague and question begging, since what people can accept within their historical circumstances depends upon how they perceive those historical circumstances in the first place. What is possible can change according to various circumstances, and judging whether something is a real option or not is, in part, to ask whether circumstances can be changed. These questions can be, to a large extent, social and political in nature, or at least it is this aspect with which I am primarily interested here. What connects the two spaces is some kind of historical narrative which people have a definite awareness of, no matter how different or 'alien' it seems at first glance. In the very self reflexive nature of our late modern culture, we have the scope to recall or reemphasize a diversity of cultural materials, precisely because parties share, to some degree at least, a social space within which they can be deployed, understood, and used. This is not to say that 'anything goes', but simply that the range of explanatory frameworks within which we can place our own and

9 Williams, 1985, pp. 160-167.

others' cultures has been greatly expanded. Thus, philosophers and political theorists who call for a revival of conceptions from past epochs, who seek to excavate older outlooks and concepts to use as epistemic and linguistic 'resources' for contemporary argument building, or who want to expose (or articulate) 'deep' sources of contemporary human understanding, seek to expand the social space within which we meet alternative ethical and political ideals. In doing so they are, I believe, recognizing an important aspect of late modernity. This is, that we are not only able to understand conceptual systems from the inside, but that we are conscious of any number of alternatives which have existed (or still do) in different social circumstances, some of which may still exist 'at our own door'.¹⁰ They are not, for the most part, calling for a return back from reflectiveness, to forms of life which are not 'real options' for modern men and women. Their target is usually the colonization of our political and social space by a hegemonic set of terms and concepts which rule out - i.e. render alien - other outlooks which point to ways our ethical and political lives could be lived differently (usually for the better) than they are now.

When we turn to an examination of the work of some of these theorists below, what is striking is their sense of claustrophobia in the presence of contemporary political discourse; for them, our moral understanding is cramped, connections suppressed, imaginations restricted, concepts impoverished. In part, this is linked to not only their analytic critiques of conventional approaches to the history of ideas, but also by their interpretation of the world around them, replete with social fragmentation and manic self-seeking, problems they see as only feebly addressed by contemporary theory. As a result, their methodological claims are suffused with the language of 'uncovering', of the need for archaeologies, excavations, recoveries, and reconstructions, to expand and enlarge our linguistic and

¹⁰ Williams, 'Left-Wing Wittgenstein', p. 40.

interpretive resources, and to warn, provoke, and deepen our individual and collective imagination.¹¹ In its strongest form, this 'return' to history is almost teleological, that we can't help but do so because the concepts and (especially) identities we once had remain in our consciousness - though always in shadowy uncertain ways - and thus we have a sense of loss or fragmentation which impels us to keep asking certain questions and to seek out certain connections.¹²

At its most interesting though, recent arguments in the history of ideas eschew any kind of historical determinism or cunning of reason, but rather concentrate on the complex relationship between our interpretation of texts in history and our deployment of argument, partly constituted by these texts, in the present. The methodological work of Quentin Skinner has been particularly influential here, and throughout part one, and especially in chapter three and 'Interlude', I will be addressing it, both implicitly and explicitly, at least as much as I can, given how much I am indebted to it.¹³

Skinner has been accused on one side of subverting the possibility of historical understanding by insisting on paying close attention to the linguistic and cultural conventions to which an utterance refers, and yet on another of imposing his own cultural preconceptions on the past by his use of twentieth-century theories of meaning and intention. Critics have tended to reduce the possibilities inherent in any

11 This is especially true of the work of Professor's Skinner, Pocock, and Taylor (among others) as we shall see below. Cf. the discussion in D. LaCapra, 'Rethinking Intellectual History and Reading Texts', *History and Theory*, 19, 1980, p. 26.

12 This applies particularly to discussions of the self in this literature. Pocock argues in places, that we have a 'need' to explore the road back to the idea of citizenship in ancient times, which he calls the 'imperative' of the classical idea of citizenship, since it is part of the means by which we affirm ourselves today as citizens. See his 'The Ideal of Citizenship Since Classical Times', *Queen's Quarterly*, 99, 1, 1992, 33-55. cf. 1971, pp. 101-103. More generally, see the work of Charles Taylor, especially his recent *Sources of the Self: The Making of the Modern Identity*, Cambridge University Press, 1989, and further references below.

13 See Tully ed. 1988, which includes a substantial 'Reply to my Critics'. It does not include all of the important articles however. See also 'Conventions and the Understanding of Speech Acts', *Philosophical Quarterly*, 20, 1970, pp. 118-38; 'Hermeneutics and the Role of History', *New Literary History*, 7, 1975, pp. 209-32. Janssen 1985 is another important discussion not included in the Tully edition.

understanding of 'a' history of ideas to an either/or proposition; historical veracity or contemporary relevance.¹⁴ As should be clear by now I will not be following this line of critique, nor do I think in the end that it is helpful, and generally agree with Skinner (and others) that it is a bifurcation we could do without. This is not the place to enter into a detailed exposition of Skinner's arguments, but I would like to draw out some general points, which will serve discussions below in part one.

The basic goal of Skinner's approach is to describe what historical conventions (or 'languages') particular texts were written in, and by which they were, and are, interpreted. This involves, of course, detailed and rigorous historical work, delineating (as far as possible) the whole range of communications which could have been conventionally performed on the given occasion, and then tracing the relations between the given utterance and this wider linguistic context as a means of 'decoding' the intention of the given writer (or 'speaker'). Though doing so involves engaging in a process of distancing, the past is not rendered wholly alien and incommensurable with the present, rather, this gap is constituted more by our limited 'imaginative grasp' and 'lack of information'.¹⁵ We can never wholly grasp *every* intention of a speaker (with absolute certainty), nor even hope to achieve complete translateability of *every* term or concept, but this does not mean we cannot make some plausible hypotheses about intentions, or make intelligible terms and concepts which we nevertheless cannot pair with an exact English equivalent - something historians have always attempted to do anyway.¹⁶

The 'results' of this kind of approach are related to the present on two levels. Firstly, it is to point out that political utterances (i.e. political theories) are always conducted within conventional (linguistic)

¹⁴ Janssen, 1985, p. 117 and *passim*.

¹⁵ In Tully ed. 1988, pp. 63-4; 1970, p. 137.

¹⁶ For these points in relation to the work of Derrida, Hollis, Quine, and Davidson, see Skinner's 'Reply to my critics', in Tully ed. 1988, pp. 280-1, 250-1.

contexts, the make-up of which includes a set of considerations and practices which 'work on' the nature of the discursive act being performed. This is not to say that the conventions of a particular social context wholly produce what is said asymmetrically, but that conventions are the ground upon which the 'uptake' of a text is possible.¹⁷ This kind of approach has something to say about the practice of political theory in general; that in seeing and examining the relations between speech acts and the conventions within which they were spoken in the past, we learn something about the conditions of our own political discourse. This is, the process of legitimation between ideology and action, the way practical forms of activity set and hold ideologies in place, and *vice versa*.¹⁸

Secondly, and by no means distinct from the first point, is the idea of an appropriate vantage point. We are inescapably committed to viewing history from our vantage point, and cannot, as it were, enter into the minds of past writers and theorists. Yet it does not follow from this that we must interpret historical differences as being a competition over a universal and timeless continuum of values, the victors of which are the concepts and values we use today. In paying attention to intentions and conventions, what is 'revealed' is not the 'essential sameness' of moral assumptions and political commitments, but their 'essential variety'. Instead of 'traditional' and 'timeless' truths, we discover various different concepts which go with various different societies, and in so doing, learn the distinction between what is

17 Quentin Skinner, 'Hermeneutics and the Role of History', *New Literary History*, 7, 1975, p. 216. See also 1988, 'Reply to my critics', pp. 276-7, where he admits that though he does not accept authors are 'prisoners' of a bounded discourse, his approach does leave the 'traditional figure' of the author in 'extremely poor health', since '(r)eciterating, defending, underpinning, commonplace insights as they do' authors can seem 'mere precipitates of their contexts'. Though 'discourse' becomes the focus of attention, this does not mean that relation between author-language is strictly one of constraint; 'language constitutes a resource as well'. See the excellent discussion in Janssen 1985, p. 128-9, in relation to critics who have misunderstood Skinner on this point.

18 See Tully ed., 'The pen is a mighty sword: Quentin Skinner's analysis of politics', in Tully ed. 1988, pp. 23-4. He argues that on Skinner's evidence, the foundation of this legitimating activity in the early modern period is warfare, whether on the battlefield, or recast into the descriptions of the relations between the institutions and populations of early modern society.

'necessary' and what is the 'product' of our own 'contingent arrangements', and as a result, 'the key to self-awareness itself'. 'Self awareness' here means the ability to gain a perspective on our beliefs which allows us to be less parochial (we are not the only tribe in town), more self critical (can we do things any differently?), and generally give ourselves the means to prevent our current political theories from 'degenerating' into 'uncritically accepted ideologies'.¹⁹ A similar concern with the idea of analysing concepts in their 'sites' is found in the work of Michel Foucault and what he calls the 'history of the present' - how our present conceptions were made, and how the conditions of their formation might constrain our present ways of thinking.²⁰ Though the comparison should not be overstressed, both Skinner and Foucault share a concern, through history, to show something about our present reality.

We now have a sense of some of the explanatory force behind some of the more sophisticated arguments for the role of the interpretation of history in relation to the political debates of today. In part 1, I want to explore a particular historical narrative concerning the two concepts of liberty and self, which in many ways lies at the bottom of the so-called 'republican revival' in contemporary political theory. I begin with a consideration of the foundations of this revival, and especially the arguments we find in Cicero, the Northern Humanists, and in Machiavelli. I want to sketch a relation between liberty and self which classical republican theory in general takes on board, and which differs somewhat from recent interpretations. I also want to compare these

19 Skinner in Tully ed. 1988, pp. 66-7. See also 1988, pp. 286-8. Skinner explicitly aligns himself to the 'de-privileging' (or 'undoing') potential of Rorty's questioning of any distinction between the 'merely historical' and the 'genuinely philosophical'. See Richard Rorty, *Philosophy and the Mirror of Nature*, Basil Blackwell, Oxford, 1980 (1989), pp. 362-5, 391-2.

20 I shall be discussing Foucault's work in relation to the themes of this introduction and the thesis as a whole in detail below in part 2. An excellent discussion of the relation between philosophy, history, and Foucault's 'history of the present', can be found in Ian Hacking's 'Two Kinds of "New Historicism" for Philosophers', *New Literary History*, 21, 2, 1990, 343-364. James Tully also mentions similarities between Skinner and Foucault, see Tully ed, 1988, pp. 24-5.

concepts and their relations with an early modern precursor of liberalism, John Locke, since it has become commonplace to make a sharp conceptual distinction between the two. I want to try and undermine this tendency by looking for, and showing, connections between the two approaches.

Some contemporary theorists have explicitly aligned themselves with the civic republican narrative (or set of narratives) for reasons either identical to, or very similar to the discussion above. In other words, as a means of either criticizing contemporary society and its entrenched conventional ideology (usually 'liberalism'), or as a means of suggesting conceptual resources to supplant and improve current political and social practices.²¹ I shall leave the consideration of how some of these arguments and their attendant historical narratives about liberty and self measure up against conventional contemporary accounts, until part 2. However I want to conclude part 1 with a consideration of the general nature of a political 'language', and how, once we have recalled it, or deemed it to be a plausible 'resource', it becomes implicated in the conventional political discourse of the day,

21 Aside from Skinner and Pocock themselves (see the discussion below for references), these include (among many) Charles Taylor, *Sources of the Self: The Making of the Modern Identity*, Cambridge University Press 1989; 'Alternative Futures', in A. Cairns and C. Williams ed., *Constitutionalism, Citizenship, and Society*, Toronto, University of Toronto Press, 1985, pp. 183-229 (especially at pp. 213-14 where he distinguishes very carefully between communitarian and civic republican concerns, the latter of which are more relevant to his general arguments); and 'Cross-Purposes: The Liberal-Communitarian Debate', Nancy Rosenblum ed. *Liberalism and the Moral Life*, Cambridge Mass. Harvard University Press, 1989; Michael Sandel, *Liberalism and the Limits of Justice*, Cambridge University Press, 1982; 'The Procedural Republic and the Unencumbered Self', *Political Theory*, 12, 1, 81-96; 'Introduction' in *Liberalism and its Critics*, ed. Michael Sandel, New York, New York University Press, 1-11; 'Morality and the Liberal Ideal', *The New Republic*, May 7, 1984, 15-17; 'The State and the Soul' (review article), *The New Republic*, June 10, 1985, 37-41; Robert N. Bellah et. al, *Habits of the Heart: Individualism and Commitment in American Life*, New York, Harper and Row, 1985; Christopher Lasch, *Hope Against Hope: The Idea of Progress and Its Critics*, New York, Norton, 1990; Chantal Mouffe, ed., *Dimensions of Radical Democracy*, London, Verso, 1992; Cass R. Sunstein, 'Beyond the Republican Revival', *The Yale Law Journal*, 97, 8, July 1988, 1539-1590; 'Preference and Politics', *Philosophy and Public Affairs*, 20, 1, 1991, 3-34; John Braithwaite and Philip Petit, *Not Just Deserts: A Republican Theory of Criminal Justice*, Oxford, Clarendon Press, 1990; Shelly Burt, *Virtue Transformed: Political Argument in England 1688-1740*, Cambridge University Press, 1992; Maurizio Viroli, *From Politics to Reason of State*, Cambridge University Press, 1992.

and whether in the end it does any *work*, and whether the kinds of claims made on its behalf are justified. This will serve as a transition to part 2 of the thesis.

Chapter 1: Ciceronian Themes

1.0 Introduction

Classical republican theory assumed a relation between liberty and self which I want to explore in some detail below, and firstly in the work of Cicero, from whom subsequent republican theorists learned so much. In particular, I want to argue that the structure of the relation between liberty and the self in Cicero is the context within which the 'classical' theory works as a whole, and I will attempt to show that this is so even in the case of Machiavelli, in a way which differs from some current interpretations found, for example, in the work of Professor Skinner. To 'return' to Cicero is to do something political activists and theorists have done down throughout the centuries, especially in the Renaissance and early modern periods under examination here. In part, I want to consider the context of these unearthings, the reasons why particular texts are chosen, and the arguments which began or were resurrected by the invocation of this past 'authority'.

The themes under examination in this chapter will, for the most part, be pursued throughout the whole of the rest of thesis, though of course set in the three general contexts of republicanism, liberalism, and post-modernism. I want to examine firstly and generally, the concept of *libertas* in (early and late) Republican Rome. Secondly, the relationship between duty, *decorum*, and *dignitas*. Thirdly, and finally, a consideration of the Ciceronian self (or *persona*), and its relation to the role of rhetoric, and the framework of republican political citizenship in general. Though the general significance and relevance of ancient Greek and especially Roman thought to early modern political theory has been made in a number of important studies - to which I am greatly indebted - I want to particularize these resonances in the person of Cicero and some of his work.¹

1 See J.G.A. Pocock, *The Machiavellian Moment; Florentine Political Thought and the Atlantic Republican Tradition*, Princeton University Press, 1975; Quentin Skinner, *The Foundations of Modern Political Thought Volume I&II*, Cambridge University Press, 1979; see below for references to his work on Machiavelli and classical republicanism in general.

1.1 A System of libertas

In the latter part of 62 B.C., Cicero bought an elegant house on the fashionable northeast side of the Palatine, high above and in view of the forum.² The house was no doubt important to Cicero, bought after his consulship as a sign of his arrival and acceptance into high Roman politics and society (the two were intimately linked), a symbol of his place in the order of things. However, when Clodius exiled Cicero in 58 B.C. for executing the Catilinarian conspirators without trial (which Cicero had justified on the grounds of preserving liberty), he also demolished Cicero's grand house and in its place erected a shrine to the goddess of libertas. More than just the petulant act of a political opponent, it was meant to convey a message to the people of Rome - that they had been 'delivered' from Cicero, freed from a tyranny.³ It was an attack not only on Cicero's pride but also on his kind and creed, and when he eventually was able to return the next year, one of the first things he did was to destroy the shrine and re-establish his home - at public expense - in order to cleanse his reputation of Clodius' 'slur'.⁴

This practical contestation of the concept of libertas is central to the period of the Late Republic and Principate, and Cicero's work as a whole. It has proved a difficult thing to pin down, and the academic literature which surrounds it often resembles the divergences and disagreements of the Romans themselves. Nevertheless, it is important for me here to try and sketch what Cicero meant by libertas, as well as what he did *not* mean by it.

These themes have also been prominent in the work of Richard Tuck. See his *Philosophy and Government: 1572-1651*, Cambridge University Press, 1993, especially pp. 1-64. See also R.D.C. Cumming, *Human Nature and History: A Study of the Development of Liberal Political Thought Volume I&II*, University of Chicago Press, 1969 Gerhard Oestreich, *Neo-Stoicism and the Early Modern State*, (ed. Brigitta Oestreich, H.G. Koenigsbeger, transl. David McLintock), Cambridge University Press, 1982; Justin Champion, *The Pillars of Preistcraft Shaken: The Church of England and its Enemies*, Cambridge University Press, 1992, especially pp. 182-222; and Shelly Burt, *Virtue Transformed: Political Argument in England 1688-1740*, Cambridge University Press, 1992.

2 Walter Allen Jr., 'Cicero's House and Libertas', *Transactions of the American Philological Association*, 1944, p.1-9.

3 Ibid, p. 8.

4 Cicero responded to Clodius' charge of *tyrannus* in his *De domo sua* (94), retaliating by discussing Clodius' own '*dominatus*'.

Insofar as we can perceive a general Roman contour of *libertas*, its root sense derives from *liber*, the opposite of which was to be a slave. Pregnant within this negation though is also the capacity for the possession of rights. This is not an innate capacity or faculty (as in the Digest)⁵ for *libertas*, but an acquired civic right conditioned by the *civitas*. *Libertas* is understood relationally, not as an expression of the autonomy of the will, but as a right to claim what is due to oneself and a duty to respect what is due to others. However, it is not enough simply to equate *libertas* with the recognized membership of a *civitas*, or as simply existing under the rule of law which is equally binding for all, and leave it at that, since this avoids the context of its usage and the theoretically loaded nature of terms such as 'freedom under the law'. As Ste. Croix has argued, '(M)odern historians have too often suffered from an unfortunate tendency to see the Roman concept of *libertas* either in much the same terms as the Roman ruling class saw it, or as something "vague" and hardly worth taking seriously'.⁶ Before looking at the political context and usage of Cicero's *libertas*, I want to elucidate its particular character.

If Cicero's understanding of *libertas* is not representative of all the usages of the term, what are its key components? *Libertas* for Cicero is above all dependent upon a form of government, from which flows common citizenship and the rights inherent in that status ('qua rei publicae nomen universae civitatis est' *De Legibus*, II.5-6).⁷ Writing at a time of severe factional infighting and civil war, the constitutionalism of Cicero is crucial for an understanding of his *libertas*, since the *res publica* embodied its concrete, political,

5 Chaim Wirszubski, *Libertas as a Political Idea at Rome During the Late Republic and Early Principate*, Cambridge University Press, 1950, p. 2-3.

6 G.E.M. De Ste. Croix, *The Class Struggle in the Ancient Greek World from the Archaic Age to the Arab Conquests*, Duckworth, 1981, p. 367. R. Syme in his classic, *The Roman Revolution*, Oxford University Press, 1939, says something quite similar. (p. 155) See also G. Crifo, 'Di alcuni aspetti della liberta in Roma', *Archivio Giuridico Filippo Serafini*, 33, 1958, pp. 1-72.

7 *De Legibus*, transl. C. W. Keyes, Loeb Classical Library, Harvard University Press, 1988 (1928). Hereafter abbreviated DL.

manifestation. The people are free when they are not subject to the particular will of a despot governing in his own interest, or for the benefit of foreign power. As Cicero defines it, liberty is 'the right of the people' against slavery and domination.⁸ Effective government (i.e. guaranteeing *libertas*) meant the right distribution of powers - and we must be careful here not to confuse *distribution* with *separation*. Political liberty exists only under the rule of law, and strictly speaking, the rights inherent in *libertas* are the same 'for all' without which it did not 'deserve the name of liberty'. (*De Re Publica*, I.47)⁹ However, and this is a key problem for Cicero, *libertas* could not endorse strict egalitarian outcomes, since this would ignore the heterogeneity of actual Roman society, disregard the particular *dignitas* of its members (especially the ruling class), and encourage social discord: 'For the equality of legal rights of which free peoples are so fond cannot be maintained (for the people themselves, though free and unrestrained, give very many special powers to many individuals, and create great distinctions among men and the honours granted to them) and what is called equality is really most inequitable. For when equal honour is given to the highest and the lowest - for men of both types must exist in every nation - then this very "fairness" is most unfair'. (DRP, I.53) I will examine the crucial role of *dignitas* in greater detail below, but notice how its insertion here by Cicero conditions the problematic of *libertas*; since the division of political labour is a given (i.e. not whether a few should govern but who should this few be, according to their *dignitas* etc.) the real question becomes the appropriate 'fit' between the fundamental rights of citizens (and non-citizens) and the governing

8 Cicero clearly linked the Roman people with liberty; 'Other nations can endure slavery, the assured possession of the Roman people is liberty'. 6 *Phil*, s.7, par. 19; transl. Walter C.A. Ker, London, 1921, p. 333, in *Opera Omnia*, 1690, 'Pars Quarta', vol. 3, p. 2043 For a discussion of the importance of this passage for Rousseau for example, see Maurizio Viroli, *Jean Jacques Rousseau and the "Well Ordered" Society*, transl. Derek Hanson, Cambridge University Press, 1988, p. 154-55.

9 *De Re Publica*, transl. C. W. Keyes, Loeb Classical Library, Harvard University Press, 1988 (1928). Hereafter abbreviated DRP. See also the *Pro Cluentio Avito*: 'through the laws we are all made servants in order that we may be free', *Opera Omnia* 1690, Pars Quarta, vol. 2, p. 1269 (transl. W. Peterson, London, 1895, p. 84). In Viroli, 1988, p. 154.

power of the ruling elite. It is a matter of finding the right balance - between rights and duties, between classes, and between constitutions.

Before moving onto a discussion of the practical manifestation of this 'balance' in Cicero, I want to look at his understanding of law, since it grounds the relations between citizens and their governors, or at least, is supposed to. Following the Stoics, law for Cicero begins as natural law: 'Law is the distinction between things just and unjust, made in agreement with that primal and most ancient of all things Nature; and in conformity to Nature's standard are framed those human laws which inflict punishment upon the wicked but defend and protect the good'. (DL, II.13) The purpose of the laws is for the 'safety of citizens, the preservation of states, and the tranquillity and happiness of human life' (DL, II.11), and thus they cannot be abrogated or replaced with impunity. The laws that men invent - positive law - must conform to the universal and 'immutable' law, without exception, since 'true law' is 'right reason in agreement with nature' and one cannot be freed from its obligation. (DRP, III.32-4) Now this is clearly in opposition to the conventional view of the origin of law found in Carneades, and which Cicero has Philus defend - 'I ask, if it is the duty of a just and good man to obey the laws, what laws is he to obey? All the different laws that exist?...there is no such thing as natural justice, and from this it follows that neither are men just by nature'. (DRP, III.19) - on this view the law is relative in relation to the people who exercise it. Cicero, living amidst a society tearing itself apart, cannot accept such a view, and seeks instead to ground the fundamental laws of a state, its constitution, on some kind of 'permanent validity',¹⁰ a moral basis, so as to protect the *libertas* of the republic from the volatility of narrow factional manipulation.

Now, this rule of natural law is one of justice, the highest and most natural of the four cardinal virtues (the others being wisdom, courage,

10 The phrase is Wirszubski's. Cf. the discussion in Tuck 1993, pp. 6-10, who carefully points out how Cicero, though sceptical with regard to most philosophical matters, was less so with regard to moral ones, especially the pursuit of the *beata vita*.

and temperance). Justice (along with beneficence) is the 'reasoning by which the fellowship of men with one another, and the communal life, are held together' (*De officiis*, I.20),¹¹ it is the cement of society and necessary for its very preservation. Justice is fundamental to the sociability of man, it 'looks out of doors and is completely prominent and conspicuous'. (DRP, III.11) No man should harm another unless provoked by injustice, and since 'we are not born for ourselves alone', we ought to 'contribute to the common stock the things that benefit everyone together, and by the exchange of dutiful services, by giving and receiving expertise and effort and means, to bind fast the fellowship of men with each other'. (DO, I.22) One should respect common and private property, fulfil pledges, as well as be kind and generous to others, though always staying within your means. (DO, I.20, I.23, I.43-44) Note that justice has nothing to do with equalizing outcomes or the redistribution of wealth, in fact it is dependent on maintaining differentials between persons according to 'worth'. (See DRP, I. 53 - quoted above - II. 56-7; DL, III.38-9) Programs of agrarian reform, like those promoted by *Populares*, failed to live up to the criteria of justice according to Cicero, since they advocated the violation of the security of oaths, pledges, property and possessions.¹² For Cicero, justice consists of two parts - justice proper (*iustitia*) and benevolence (*liberalitas*). In the first case, justice arises from a concern with the maintenance of property according to agreements (private property), and for example, rules of just wars or the treatment of enemies. (DO, I.21, I.34) 'Keeping faith' (*fides*) is fundamental to justice here, maintaining 'constancy and truth in what is said and agreed'. (DO, I.23) The keeping of agreements thus generates rights, and one cannot break one's word regardless of the fact that it might be to your advantage to

11 *De officiis* (On duties), ed. M.T. Griffin and E.M. Atkins, Cambridge University Press, 1991. Hereafter DO.

12 For a robust (if perhaps anachronistic) account of Cicero as a Conservative individualist, see Neal Wood, *Cicero's Social and Political Thought*, University of California Press, 1989, especially p. 76-78. Cf. M. Schofield, *The Stoic Idea of the City*, Cambridge University Press, 1991.

do so, even towards the 'lowliest' in society (i.e. slaves) whom we must treat 'as if they were employees...and grant them just treatment' (DO, I.41).¹³

How all this relates to property is slightly more complex. Agreements struck in relation to property generate effective rights according to justice, similar to the way that ownership of a theatre ticket entitles one to a seat in the public space of a theatre.¹⁴ Property is always spoke of in the context of this dual tension - 'one should consider the interests of individuals just as fully but in such a way that the matter benefits - or at least does not harm - the Republic'. (DO, II.72) Everyone must be able to hold onto what is his, and generally, 'private men' should never be deprived of their goods by public acts: 'For political communities and citizenships were constituted especially so that men could hold onto what was theirs. It may be true that nature first guided men to gather in groups; but it was in the hope of safeguarding their possessions that they sought protection in cities'. (DO, II.73) Cicero's target is quite clear - the *Populares* - who argued for agricultural reform and the redistribution of wealth, and for relief from the punitive conditions of debt relief suffered by the lower echelons of Roman society. Their proposals undermined the very foundations of the political community, upsetting the 'concord' of orders (by taking money from a few to give to others) and jettisoning fairness, 'which utterly vanishes if everyone may not keep that which is his'. (DO, II.78) Of course the opposite holds true as well - rights to private property are not in themselves justifiable without relation to the good of the *res publica*, that 'the benefit of each individual and the benefit of all together

13 This is a hypothetical case of course, since Roman law allowed a slave owner to abuse his slave (even kill him) with relative impunity, though another freeman could take the slave-owner to court. It is a puzzling example of 'just treatment' since Cicero later says that 'workers who are paid for their labour and not for their skill have servile and demeaning employment; for in their case the very wage is a contract to servitude'. (DO, I.150)

14 The example of a theatre is used repeatedly by Cicero in DO in various different cases. It is important to note that in the Roman context theatres were public institutions, unlike our private theatres today. In relation to property he also uses it in *De Finibus*, III.67. It is a metaphor used often by seventeenth century natural law thinkers as well.

should be the same'. (DO, III.26) It is 'natural' that each man should want to secure himself however, since 'nature' does not allow us to increase our means, our resources and our wealth by despoiling others. (DO, III.22) This is where 'benevolence' enters the picture, since it is from this which flow the duties of our shared 'natural equality'. This too is in keeping with the non-egalitarian implications of Ciceronian justice, and is not 'inspired by a frenzied or sudden impulse of the spirit towards everyone, like a gust of wind', but involves careful consideration of one's own benefit, and the hierarchy of communal and personal relations. (DO, I.46-50) We must become 'good calculators of our duties' in order to know how much is owed to each person in each particular situation. (DO, I.59) The stress here is on the differentiation of duties owed according to the 'closeness' of relation: 'none is more serious and none dearer' than that of the Republic, followed by our parents, our children and household, our relations and our friends. (DO, I.57)¹⁵

Cicero simply presumes that these two aspects of justice will not conflict, nor is *iustitia* said to be a means towards benevolence or vice-versa (at least in any clear sense).¹⁶ An example of Cicero's does not help clarify the relation either. He gives an example of Quintus Scaevola asking the price of a farm he wished to buy and when given it, thought it worth more and added 100,000 sesterces to the price. Now according to Cicero, someone like Diogenes of Hecaton would not be able to agree with Scaevola's action, since one's duty in such a case is to refrain only from doing what is not permitted by justice proper - i.e. from law or from a contract. According to Hecaton, whom Cicero reports from at DO III.63, a wise man (in the Stoic sense) would look

15 But note that at DO I.160 the order is different, placing duties to the gods over one's country and omitting a general duty to mankind. However, though the gods are the source of the benefits of life, they can only be repaid in piety and in observance of the fellowship of mankind 'established by the gods'. (DO, III.28) See Griffin and Atkins, p. 26.

16 For an excellent discussion of the source of Cicero's ideas on this, and the confusion generated, see Julia Annas, 'Cicero on Stoic Moral Philosophy and Private Property', *Philosophia Togata*, ed. J. Barnes and M. Griffin, Oxford University Press, 1989, 151-73.

firstly after his own wealth, though always in accordance with the law and established practices since 'we do not wish to be rich for our own sake alone, but for our children, our friends, and most of all for the political community'. (DO, III.63) Thus, Scaevola would not be bound to pay a higher price than offered, since he would not be violating any 'right' of the seller, and his subsequent increase in wealth would be, in a general way, contributing to the good of the community as a whole. Cicero rejects this: 'if ever that which we call beneficial seems to conflict with that which we understand to be honourable, a rule of procedure (formula) must be established'. (DO, III.19) This 'rule of procedure' (in accordance with Stoic orthodoxy) is that where dishonourableness exists there can be nothing beneficial, since 'for one man to take advantage at the cost of another's disadvantage is more contrary to nature than death, than poverty, than pain and anything else that may happen to his body or external possessions'. (DO, III.21) Scaevola, therefore, is to be praised for his action, even though the present law (or contract) does not call for it, since reason demands that 'nothing is done insidiously, deceptively, or with pretence'. That current practices have become corrupted and that these are reflected in civil law does not excuse it from the authority of the law of nature, which is the ultimate ground for the fellowship of man in the commonwealth. Cicero dissolves the conflict through the application of a 'rule of procedure' which collapses any distinction between what is the 'good' thing to do and the 'proper' thing to do according to established practices. Unlike Diogenes and Hecaton, who could be said to be recognizing the potential for conflict between legal obligation and moral duty in a more realistic fashion, Cicero's main concern is to invoke the primacy of virtue: 'We...do not have the firm and lifelike figure of true law and genuine justice; we make use of shadows and sketches. I wish we could follow even those!' (DO, III.69) As Annas points out, this is a curiously crude and impractical solution, and 'we are left with a moral theory and little idea of how to apply it in the real world in which there are

established institutions like those of buying and selling'.¹⁷ Whatever the case, Cicero's point is (if only) relatively clear.

I shall leave aside further discussion of duty and private property to be picked up again below, and instead move on to complete my sketch of Ciceronian *libertas* by considering how the elements discussed above - community, law, and justice - are both constitutive of, and represented by, the *res publica*.

Community, law, and justice for Cicero are almost wholly dependent on his conception of the 'state' (*res publica*), as is basically all that can be considered human. The obvious point of reference for this discussion is Plato's *Republic*, not just in the way that Cicero copies the stylistic form of a dialogue, but in the centrality of the *res publica* to political theory as a whole. The differences are equally important, most significantly that Cicero will not (in employing the same principle as Plato) present a 'shadowy commonwealth of the imagination but a real and very powerful state' (DRP, II. 52), as real and as tangible as the history which constitutes the community as it actually is now. From the opening pages of the DRP, Scipio insists on going beyond the 'greatest and wisest men of Greece' and asks to be listened to as a 'Roman' with a 'liberal education...trained by experience and the maxims learned at home much more than by books'. (DRP, I.36) The kind of knowledge we are to ascertain in relation to the *res publica* is referred to as akin to the knowledge of a craft (*quasi artem*), devoted, as are the thoughts and efforts of every craftsman, to 'no other than the improvement of his skill in his own craft'. (DRP, I.35)

Usefully (and unlike Plato) Cicero has Scipio begin the discussion with a formal definition of the subject at hand:¹⁸ 'a commonwealth is the property of the people' (*res publica res populi*). The 'people' are not just any group of human beings together in one place, but an assemblage of people 'associated in agreement with respect to justice

¹⁷ Ibid, p.173. See also the discussion in Tuck 1993, pp. 54-6.

¹⁸ Cicero is thought to be the first major Western political theorist to do so, a point made by Cumming, Vol. I, p. 172-3, and repeated by Wood, p. 120.

and a partnership for the common good'. (DRP, I.39) In Book III of DRP Cicero provides a further discussion of this point by having Philus and Laelius debate the nature of justice in relation to the commonwealth. (I touched briefly on this above) Philus, following Carneades, argues that since there exists a great variety of laws without any necessary commonality, their justification and force must rest solely on their utility rather than any 'natural' justice. Justice is nothing other than an agreement for self restraint, and one always made by the rulers to cater to their own interests and not those of over whom they govern. (DRP, III. 19-23) Believing in any natural justice is 'folly', since this is tantamount to agreeing to be taken advantage of by others: 'wisdom urges us... to rule over as many subjects as possible, to enjoy pleasures, to become rich, to be rulers and masters...justice...instructs us to spare all men, to consider the interests of the whole human race, to give everyone his due, and not to touch sacred or public property, or that which belongs to others'. (DRP, III.24) Against this Laelius states the Ciceronian case, which Scipio eventually picks up at the end of Book III. 'True law' is right reason in agreement with nature, universal in its application, 'unchanging and everlasting'. (DRP, III.40) Thus, any state which does not uphold the bond of justice, which is the agreement of partnership amongst a people, is not a commonwealth since it could not really be the 'property of the people'. Justice is a necessary condition for the existence of a commonwealth.

Let us examine this point more carefully via a consideration of the typology of states which Cicero has Scipio discuss in Books I and II. In his discussion of the development of the *res publica* in Book I, Scipio distinguishes between three types of states - kingship, aristocracy, and popular government. Each have had a role to play in Roman history, and each form has its merits, but equally, each has within itself a 'slippery and precipitous path leading to a certain depraved form'. (DRP, I. 44) In kingships the people have too small a share in the 'administration of justice and in deliberation', in aristocracies they do

not have enough liberty because they are 'entirely excluded from deliberation for the common weal and from power', and in democracies even if the people exercise power with justice and moderation the resulting equality is inequitable because 'it allows no distinctions in rank'. (DRP, I. 43) Scipio in particular emphasizes the depravity of this last form, and spends a disproportionate amount of time rehearsing their arguments only in order to smash them.¹⁹ For Scipio the best, if forced to choose, is kingship, but above them all is a 'well regulated mixture' of the three simple forms. (DRP, I. 45) Since the ruling power of the state is like a ball, 'snatched from kings by tyrants, from tyrants by aristocrats or the people, and from them by an oligarchic faction or a tyrant', no single form of government can ever maintain itself for very long. Because these primary forms degenerate so easily, the best constitution must have the structural capacities to counteract the corrosive effects, and hence should contain part 'supreme and royal element', some powers granted to 'leading citizens', and 'certain matters' left to the judgement and tastes of the masses. This should neutralize any upheaval, since there is no reason for change 'when every citizen is firmly established in his own station, and there underlies it no perverted form into which it can plunge and sink'. (DRP, I.69) The political division of labour is crucial not only for the business of state, but also for its continuity and very existence. Breaking with Plato, Cicero's ideal form of state is not an ideal doomed to remain a blueprint, but in fact (he claims) exists within grasp. Scipio declares that 'no other form of government is comparable, either in its general character, in its distribution of powers, or in the training it gives, with which of our ancestors...have handed down to us'. The break with Plato is further emphasized at the beginning of Book II of DRP when Laelius observes that Scipio is beginning a 'new style of discussion...nowhere employed in the writing of the Greeks', and though the Greek's state might be an 'excellent one', it is 'quite

¹⁹ See DRP, I.48-49.

unsuited to men's actual lives and habits'. (DRP, II. 21) Even Aristotle is criticized (as a 'successor' to Plato) for not providing a 'definite example or model'. Scipio, as if using a 'demonstrating rod', will point out a 'real' state. (DRP, II.52) Cicero has replaced Plato's fictive dream of an ideal *res publica* with a specific historical example of the best practicable regime - the Roman Republic.²⁰

At this point the focus shifts from the 'ideal state' to the 'ideal statesman'.²¹ Having rejected the possibility of a Platonic 'city in speech' because of the absence of men of 'almost divine powers' to foresee and control the constant changes and sequences of governmental forms, Scipio introduces (in opposition to the tyrant Tarquinius) the 'good, wise, and skilled guardian and protector...of the practical interests and self respect of the citizen of the state'. (DRP, I.45; II.51) A philosopher-king is not realistic nor even desirable, but a practical pilot (and here he turns Plato's language right around) of the nation is a real possibility, as the history of Rome has shown. At DRP II.65 Tuberо remarks that though Scipio has discussed his own commonwealth, he has not talked of the 'state in general' and has not indicated what 'training, customs, or laws' are needed to establish and preserve it. Without completely ignoring Tuberо's point (he tells him to wait for it), Scipio insists that he is not interested in defining the ideal constitution, but instead by using 'our own state as a pattern' will *show* the effective reality of what 'reason and speech were striving to make clear'. (DRP, II.65) The text breaks off at this point and resumes with a discussion of the 'man of good sense' (*prudentum*), the man Scipio has 'long been seeking'. (DRP, II.67) This statesman will embody that political wisdom (*civilis prudentiae*) which is an 'understanding of the regular curving path through which governments travel', dealing with the fact that often 'the essential nature of the commonwealth

20 At DL III.37, Quintus asks, what is 'actually the best' state, and Atticus says that he thinks 'the best government is that which was put in force by Marcus here during his consulship - one that gives power to the aristocracy'.

21 This is brought out well in Walter Nicgorski, 'Cicero's Focus: From the Best Regime to the Model Statesman', *Political Theory*, Vol. 19, No. 2, May 1991, p. 230-251.

defeats reason'. (DRP, II.45; II.57)²² These 'unreasonable tendencies' are the recurring reality of regime instability, and hence the justification for the need of an even balance of rights, duties, and functions, 'so that the magistrates have enough power, the counsels of eminent citizens enough influence, and the people enough liberty'. (DRP, II.57)

Remember that this discussion precedes the more formal discussion of the state in book III (examined above) and thus can be said to emphasize the importance Cicero placed on the role of the ideal statesman ('the man of prudence') in the just state. He is to be the moral exemplar of the nation, improving and examining himself continually, and coaxing and urging others to do the same by following his example. His duty and work is the preservation and embellishment of the harmony of the state, the agreement amongst dissimilar elements 'brought about by a fair and reasonable blending together of the upper, middle, and lower classes, just as if they were musical tones'. (DRP, II.69)²³ This *civitate concordia* is in turn, only ever brought about by the presence of justice, which is only possible via the 'well regulated mixture' of the most practicable ideal state under the guidance of a 'man of prudence'. The statesman is never conceived of as wholly apart from society, nor is he thrust upon it as some kind of divine figure, it is (so to speak) his classroom, and is fundamental to development of his personal character. He is also dependent upon those who preceded him and those who will follow, since (as Cato taught) men 'living at one time' could not possibly make 'all the necessary provisions for the future without the actual experience and

22 'he should not allow his time constantly to be taken up with consultations or by reading and writing...for he must be able...to act as both field superintendent and household superintendent of the commonwealth...his knowledge...should be like the pilot's knowledge of the stars, or physicians knowledge of physics' (DRP, V.5).

23 The language is again borrowed from Plato, cf. *The Republic* [transl. F.M. Cornford, Oxford University Press, 1945, p.142] 443D, where he discusses the harmony of the mind of the 'just man': 'he is indeed one who sets his house in order, by self-mastery and discipline coming to be at peace with himself, and bringing into tune those three parts, like the terms in the proportion of a musical scale, the highest and lowest notes and the mean between them, with all the intermediate intervals...'.
187

test of time'. (DRP, II.2)²⁴

Ultimately for Cicero, 'It is impossible to live well except in a good commonwealth', and 'nothing can produce greater happiness than a well constituted state'. (DRP, V.7) Even this passage is linked closely to the ground, since it follows a discussion of how the good commonwealth provides for the 'practical conduct of life'. Whereas in Plato's Republic the virtues are evoked mainly as models exemplified in some 'shadowy ideal', in Cicero they are realized by 'the authoritative traditions and enactments' that actually do bind men together into society.²⁵ Cicero is reconstructing the relation between the ideal and the real, between philosophy and politics, not rejecting one for the other but adjusting the orthodox Platonic (and Stoic) preoccupation with the internal culture of the individual to make room for a greater concern with the ordering of outward circumstances. He is one of the original theorists of what contemporary theorists today call 'the political'.²⁶

The particular character of Cicero's system of *libertas* should now hopefully be clear - how it is related to the *res publica*, law, and justice, and their proper arrangement in the 'well regulated' mixed regime.²⁷ To complete this section I want to compare this with its opposite - *licentia* - and finally, to sketch the political context of Cicero's arguments and their implications for Roman society.

It is obvious that Cicero has it in for (what he calls) democratic

24 See Nicgorski, p. 244.

25 See Cumming, Vol.I p.207, for an excellent discussion of this.

26 Cumming argues that the subsequent disappearance of the bulk of the actual text of the DRP except for the 'Dream of Scipio', resulted in the disappearance of the 'political' and the reemergence of the antithesis Cicero had sought to displace: 'Once "The Dream of Scipio" became detached in the manuscript tradition from the rest of the *Republic* and survived embedded in Macrobius' commentary, Cicero's adjustment of the relation between the visionary philosophical life and the active political life was thrown off balance'. (Vol.I, p.325) Cf. the discussion in Schofield 1991.

27 The terminology is important here. As Tuck (1993, pp. 95-6, 222-240) has brilliantly shown, by the end of the sixteenth century the idea of a 'mixed' constitution in republican theorizing had given way to the idea of a 'balanced' one; i.e. exhibiting a greater concern for the balancing of *interests* rather than a mixture of the different humours. This has important consequences for the emergence of the 'reason of state' towards the end of the sixteenth century.

government, which is the 'worst form since it embodies licentia and not libertas. Perhaps the best example of this is his paraphrasing of book VIII 562c-563c of Plato's *Republic*:

In such a state that liberty prevails everywhere...homes one and all without a master...until finally the father fears his son, the son flouts his father, all sense of shame disappears and all is so absolutely free that there is no distinction between citizen and alien; the schoolmaster fears and flatters his pupils, and pupils despise their masters...wives have the same rights as their husbands...even the dogs, the horses, and the asses are so free in their running about that man must make way for them in the streets'. (DRP, I.67)

This 'boundless license' turns the minds of the citizens so 'squeamish and sensitive' that the merest expression of government authority is rejected, and they are left 'utterly without a master of any kind'. More problematical, out of such an excess of liberty, some 'bold and depraved' man presents himself as a leader and 'curries favour with the people by bestowing upon them the property of others as well as his own'. As a result, liberty gives birth to tyranny and the 'utterly unjust and cruel servitude' that it brings. (DRP, I. 69)²⁸

The implications of this argument are spelled out in DL where Atticus says that the best state is one which 'gives power to the aristocracy'. (DL, III. 37 - see above) In the next paragraph, Marcus confirms that this is precisely what he is attempting to justify. Even before this, Cicero has argued that the entire character of a Republic is determined by its arrangements with regards to magistrates since 'without their prudence and watchful care a state cannot exist'. (DRP, III. 5) Thus the administrative centre of the state - the Senate - is 'dominus' over policy, and not only enforces the law but is the very source of it. The order which is preserved is no doubt favourable to the natural ruling class of Rome - the landed aristocracy - though as a 'New Man' Cicero had to climb the social ladder (from the equestrian to the senatorial- the lower strata of the aristocracy to the highest) according to each political success. It is a senatorial concept of *libertas*, that is justified in the DRP, DO, and DL, tailored to fit and serve senatorial

28 Cicero called the statue to libertas erected on his former grounds by Clodius a 'templum licentia'. (DL, II.42)

interests. This dilutes somewhat Cicero's emphasis on the qualified nature of Senatorial *libertas* being within the law, since the Senate makes the law in the first place, though of course the Senate is ultimately answerable to natural law.²⁹ I concur with Ste. Croix and Wood that Cicero was indeed 'the most articulate of all members of the Roman ruling class'.³⁰ Faced with the upheavals of his day, the decline of republican government and the increasing challenges to the ruling Optimates,³¹ Cicero's *concordia ordinum* appealed to the traditions of Roman law and statehood as a means of dealing practicably with the disorder of his present: 'we must provide that ideal state with laws which are in harmony with its character'. (DL, II.23; DRP, II.53 66)³² Cicero's *sotium cum dignitate* was an ordered state in which men were valued according to their rank in a hierarchial social structure. The moral duties of keeping promises, protecting life, property, and acting generously (under certain conditions) were generally in the interests of the dominant land holders and could not provide the grounds for any arguments of reform (or revolution) on the part of the masses.³³

29 For example, communal sharing of all things that are for common use is preserved only after those goods which have been 'assigned by statutes and civil law' remain in possession 'as those laws have laid down' (DO, I.51).

30 Ste. Croix p. 344. This is a (if not *the*) general theme of Wood's book.

31 Cicero saw internal threats as the greatest danger to security - for example, protests from below or popular disturbances for social reform. Machiavelli would have a very different view. See *Leg. Agr.* 1.26; Wood p. 189.

32 Note also that Cicero had little time for the licentia of the super rich, the selfishness of 'fishponds', which blinded them to the needs of the commonwealth, (without which their 'fishponds' would not exist) (*Cicero's Letters to Atticus*, ed. D.R. Shackleton Bailey, Cambridge University Press, 1965-70, 1.xxx.6.).

33 I think it is important to point out here the dearth of information we have concerning the Populares. Ste. Croix's heroic effort to squeeze something from the existing sources can only really show that they were not a homogeneous group, nor were they simply concerned with getting government off their back, as is often assumed. (Sallust reported King Mithridates claiming that the Romans thought 'few men desire liberty; a large proportion are content with just masters') Ste. Croix's other valuable service is to disentangle the prejudices of Cicero towards the populares ('sentina urbis' and 'misera ac ieiuna plebecula' he called them) and to identify the remarks of subsequent classicists who uncritically took up Cicero's biases (like Wirzsubski). But see a necessary corrective to Ste. Croix's strict interpretation of the class based nature of Roman society by Michael Mann, *The Sources of Social Power Volume I: A History of Power from the Beginning to A.D. 1760*, Cambridge University Press, 1986, especially p. 251-254.

1.2 Ad exterioribus ad interiora

In this next section I want to examine in slightly more detail the relationship between duty, decorum, and dignitas, which are concepts of crucial importance to Cicero and to subsequent generations of social and political theorists who learned from his work. I want to approach them on two levels; first I will sketch the theoretical basis of each concept and then I will briefly consider their concrete manifestations.

Whereas the topological route of the Christian fathers and Neo-Platonists proceeded via 'ab exterioribus ad interiora, ab inferioribus ad superiora', for Cicero, the route was never as straight nor even in the same direction. The world of the 'exterior' is never subsumed within a metaphor for the ordering of one's interior world. Take, for example, Cicero's discussion of duty (*officia*). Duties are always spoken of in the context of a shared life, since no part of life 'neither public affairs nor private, neither in the forum nor at home, neither when acting on your own nor in dealings with another' can be free from duty. (DO, I.7; 1.4) Everything that is honourable (*honestus*) in life (here and now) depends upon their cultivation, and everything dishonourable stems from their neglect. In the DO, Cicero's concern is, above all, with the nature of *individual* human conduct, even more so than in the DRP, where the emphasis lay more on the conduct of one single individual - the ideal statesman. Cicero is highly sensitive to the differences between people and the implications of this for political theory. Though we all share in reason which raises us above mere brute creatures, and from which everything that is seemly (*decet*) and honourable is derived, another aspect of ourselves is that each of us has specific duties: 'For just as there are enormous bodily differences...similarly there are still greater differences in men's spirits'. (DO, I.107)

Though men are different in character, each shares in reason and thus each can comprehend the 'course of things' and see over the whole course of a life and prepare for it. Reason also unites men via the

bonds of speech (which I will discuss in more detail below) and the fellowship of a common life, which in turn provides sustenance and comfort to oneself, one's household and all those 'whom he holds dear and ought to protect'. (DO, I.12) Above all, reason implants a 'search for truth and its investigation', which is peculiar to man, a 'kind of impulse towards pre-eminence'. Again, Cicero inserts a comparison with Plato at this point, skilfully adjusting (i.e. wilfully misquoting) an example to serve his own purposes. In the *Phaedrus* Plato talks of the perception of the good which inspires an immediate and absolute love corresponding to an internal state of mind, an ideal.³⁴ At DO I.15, Cicero restates this same passage but with a twist, now referring to an order visible in the physical universe and in the context of the conduct of individuals in the course of their lives. This is because the 'honourableness' (or 'goodness') we seek is constituted by, and constitutive of, our actions in relation to ourselves and others, since 'learning about and reflecting upon nature is somewhat truncated and incomplete if it results in no action'. Duties based upon sociability are of the 'utmost importance, and these 'actions' are for the 'protection of men's interests and...concerned with the fellowship of the human race'. (DO, I.56) We act this way because we can perceive 'the beauty and loveliness' of the 'congruence of parts' and nature transfers 'the eyes to the mind' so that 'beauty, constancy, and order' are preserved in our decisions and deeds. Thus Cicero tells his son, 'you are seeing...the very face and form...of the honourable; if it could be seen with eyes, as Plato says, it would inspire an amazing love of wisdom'. (DO, I.14) This sense of propriety and inner order visible in one's actions is embodied in Cicero's concept of decorum, which in turn is etymologically (and conceptually) linked to his understanding of dignitas. I shall discuss this in more detail below, however before doing so we must become clear as to the specific nature of these duties based on the fellowship of men, and their arrangement within the

34 *Phaedrus* 250D.

framework of Ciceronian virtue.

Honourableness is found in four virtues; wisdom, justice, courage, and propriety. (DO, I.15)³⁵ I shall briefly examine the first two here. Though all are bound together, each has particular attendant duties. The particular function of wisdom is the investigation and discovery of what is true, avoiding any hastiness of judgement and not wasting any time on unnecessary, difficult, or abstruse matters.³⁶ Again, the emphasis is upon action: 'It is ...contrary to duty to be drawn...away from practical achievements; all the praise that belongs to virtue lies in action'. (DO, I.19; see 1.153 as well) We can always return to our studies, but we must never be engulfed by them.

I have already discussed justice above in section 1.0, the most wide reaching and 'illustrious' of the three, so here I want only to generalize that discussion by emphasizing the other-relatedness of the concept. Man is a sociable creature who is not born for himself alone and must contribute to the common stock of things which benefit everyone. Injustice is the opposite of this - one cannot benefit oneself at the expense of another since this would undermine the grounds of fellowship amongst men. (DO, I.19-21; see the discussion above *viz* the 'rule of procedure') Of course, expanding one's personal wealth is not in itself bad and certainly not to be discouraged, but only if it is done free of unjust actions. One cannot ignore the 'fellowship of life' by minding your own business either, since this contributes nothing of your 'devotion, effort, and means' to the commonwealth. (DO, I.29) Even war must be fought on the basis of justice - i.e. that the goal is peace and that justice will prevail after the battle. Justice always 'looks out of doors' and is a virtue 'beyond all others...devoted and applied to the advantage of others'. (DRP, III.11)

All of the virtues are placed within the context of *decorum*, a very

35 Griffen and Atkins translate this as 'with order and limit in everything that is said and done; Higginsbotham as 'due order and sense of propriety in all words and actions'.

36 This reminds one of Protagoras' answer to the question of whether or not the gods existed: 'I do not know if the gods exist or not. It is a difficult question and life is too short.'

important concept for Cicero, which as he says, is easier to grasp than explain - but we shall try. Decorum is inseparable from anything that is honourable (good), and it relates to every good action. It is 'the ordered beauty of life' and 'the due measure of all things', everything that is just or done in a 'great and manly spirit' (which includes courage too). It is a recognition of our role as given by nature, just as the eye is aroused by the beauty of a body via the appropriate and graceful arrangement of the limbs, so does decorum 'shining out in one's life' generate respect and approval from one's 'fellows' because of the 'order...constancy and moderation of every word and action'. (DO, I.113) We must become a sharp judge of our own qualities and faults, and aim for consistency in our actions and life as a whole. Impulses must obey reason, controlled and calmed so that we do nothing rashly or randomly, or without consideration or care, including our conduct in conversations, sport, and sex: 'we have not been created by nature to seem as if we were made for jesting and play, but rather for earnestness, for greater and weightier pursuits'. (DO, I.103) The good life is one of thrift, strictness, and sobriety, the bad one of luxury, a 'soft and effeminate (sic) lifestyle'. All our duties are premised on the background of 'seemly' conduct, and respecting that which is owed to each person. (DO, I.59)

This process is, of course, not an easy task, and Cicero has no illusions about the moral potential of his fellow human beings. Though we are characterized by shared rationality and thus a potentiality for goodness, we also share a capacity for evil, and our souls are tainted with weakness and a tendency to become easily disturbed and upset.³⁷ We are all tempted by ambition and luxury, and often our rational faculties are used to subvert morally correct action. The source of these disorders is often the pursuit of the wrong kind of pleasure - i.e. without any reference to propriety and order. (*intemperantia*) The unnatural or 'diseased' soul is unable to control and guide the appetites, and instead 'kindles, confounds, and agitates' its whole

37 Leg. I.31. *Tusculan Disputations*, ed. and transl. A.E. Douglas, 1985, II. 47; Wood, p.85.

condition. (Tusc. IV.22) Impulses which 'overstep their bounds', whether leaping away by attraction or repulsion to something, 'transgress due measure and limit', and transform the spiritual as much as the corporeal body. (DO, I.102) The government of the soul for Cicero, as in Plato, is exercised by a strong sense of self-control, with an added emphasis on its perception and visibility through actual conduct in the public sphere. (I will pick up on this important point again below)

How is it that some are able to rule themselves better than others? For Cicero it comes down to 'bad habits' (*depravatio consuetudinum*) and 'false beliefs' (*opinionum vanitas*), which twist and indulge the weakest minds. The 'sparks of fire' which nature has kindled in us are 'extinguished...and the vices which are the opposite spring up and are established'. (DL, I.29; 1.33) We alone are responsible for these 'misjudgments' and 'misunderstandings', since nature cannot be blamed for our own bad habits and improper training. (Tusc. IV.65, 82-3, V.39)³⁸ Reason, if properly cultivated and trained, can correct the disorders of the soul caused by intemperance. However at this point, the relatively straightforward discussion in Cicero of habits and conduct becomes slightly more complex, since in effect, he offers two different answers between the DRP and the DO.

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If the change in focus in the DRP is from the ideal state to the ideal statesman, between the DRP and the DO it is from the ideal statesman to the honourable individual. In more dramatic terms we could say it is an emphasis on authority giving way to a belief in liberty.³⁹

It should now be clear how Cicero in the DO turns to the importance of conduct on the part of individuals gathered together in a Republic. The 'man of good sense' whom Scipio had longed to find in the DRP to ward off tyranny has all but vanished in the DO - except for the cruel joke of Caesar: 'Here you have a man who longed to be the king of the

³⁸ See Wood, p. 87.

³⁹ Cumming Vol. II, chp. 1 has a very interesting analysis of the two texts based on this change of emphasis.

Roman people and master of every nation; and he achieved it! If anyone says that such a greed is honourable, he is out of his mind; for he is approving the death of laws and liberty, and courting their oppression - a foul and hateful thing - as something glorious'. (DO, III.83; see also I.64 for derogatory remarks about Caesar) Remember that the ideal statesman was to make a practice of virtue by reconciling the inner and outward arrangement of things in the name of public peace and the commonwealth. He could only do this through a realization in fact, and 'not in words' those things which 'philosophers in their corners are continually whispering in our ears'. (DRP, I.69) Yet how could the statesman exercise effective political control? Through terror and fear? Not quite (though this was one reason for Rome's great imperial success). It is at this point that the individual self control discussed above is extended via the *dignitas* of the statesman (in the DRP), and the honourable action and decorum of the individual (in the DO), to include the political control of the commonwealth. To understand this process, we need to take a closer look at the nature of the Ciceronian self.

1.3 What am I now?

Fundamental to any understanding of the Ciceronian self is its inherently public nature and its embodiment in the social and political life of the *res publica*. We can see this in one of Cicero's letters to Atticus, written whilst he was in exile: 'No man has ever lost so much or fallen into such a pit of misery...I mourn the loss not only of the things and persons that were mine, but of my very self. What am I now?' (Att. 60).⁴⁰ The self is both constitutive of, and constituted by, the social order within which it is implicated. In other words, Cicero is concerned to articulate both a sense of personhood and personality.⁴¹ In the case of the former, it is to define persons as a class with reference

40 See the excellent article by Robert Hariman, 'Political Style in Cicero's letters to Atticus', *Rhetorica*, Vol. VII, No. 2 (Spring 1989), p. 145-58.

41 Christopher Gill, 'Personhood and Personality: The Four-*Personae* Theory in Cicero, *De officiis* 1', *Oxford Studies in Ancient Philosophy*, ed. Julia Annas, vi, Clarendon Press, Oxford, 1988, pp. 169-199.

to some normative criteria such as rationality or self-consciousness. In the latter, it is to be concerned with those qualities and conditions which make an individual distinct and unique. As we shall see, Cicero seems to pay more attention to the nature of personality, but not in the sense of a modern, self-sufficient or (relatively) autonomous individuality, but from a deep socially embedded perspective. Private life is never wholly extinguished - Cicero wrote from Asia that he yearned for 'the World, the Forum, Rome, my house, my friends' - but weaves itself within a complex interplay with the reality of public life (Att. 108).⁴² Let us take a closer look at this self by examining two of its fundamental characteristics.

Decorum is the architectonic principle of self (*persona*)⁴³, in essence, its organizing force. I noted above that it was 'the ordered beauty of life', inseparable from anything that was honourable and related to every good action - the recognition of our role in life as given by nature, but then achieved (or destroyed) by habituation and cultivation. We need to expand on this here. Cicero breaks down his analysis of decorum and personae into four parts (the 'four-personae' theory); that pertaining to human nature, individual character, circumstances, and career. The last is the most important, and many ways encompasses the other three since it addresses the important question - 'what men wish to be, what kind of life we want' - which is the 'most difficult' deliberation of all. (DO, I.117) Remember that it is through one's actions and overall conduct in the course of one's life, that one's decorum is demonstrated. This visibility of decorum is crucial for Cicero, manifested both in the 'reality' of public life and the private conduct of individual citizens. This is brought out in Book I of the DO, where he is concerned with perceiving and grasping that which is 'seemly' (*decoro*), and notes that the 'poets observe "what is seemly"

⁴² See Hariman p. 148.

⁴³ 'Persona' suggests both the sense of 'masks' or 'characters' associated with dramatic roles, as in the 'character' one sustains in the world, as well as the more abstract notion of 'the person' or individuated personality. The new OED lists this Ciceronian sense of 'character' - what one is at a particular time and place - as one of the constituent meanings of 'self'.

when what is said and done is worthy of the role'. And at I.114, he compares the importance of our being good 'judges' of our own qualities and faults with that of actors, 'who do not choose the best plays, but those that are most suited to themselves...If an actor...will observe this on stage, will not a wise man observe this in his life?'. These literary allusions are not merely stylistic enhancements of a political point, but indicate a moment in Cicero (of which there are many) where 'rhetorical' concerns overlap with political, legal, and moral concerns, in relation to decorum. Each of us has a role to play, and along with it a performance to give, the rule always being that 'in oratory as in life...to consider *deceat*', which organizes 'actions as well as words'.⁴⁴ Our life is a performance for the benefit of ourselves and our fellow citizens.⁴⁵

But what kind of political activity is this? It is defined in terms of rhetorical technique, politics and rhetoric being inseparable. The role we play, our place in the order of things, brings with it a particular performance or style. For the magistrate (playing one of the most important 'parts'), this means assuming the 'role of the city' in order to preserve its decorum, its laws, and to administer justice.(DO, I.124) The magistrate is more than just a good man, he is the *epitome* of good government. Our ability in playing our role, especially as leaders of the city, enhances the reputation of the city as a whole, whilst at the same time ensuring our own individual dignitas in the eyes of our compatriots.

Rhetoric is fundamental to decorum and dignitas for Cicero, to political life in general, and is not something to be denigrated or shunned, but should be cultivated and put to use as an essential

44 *Orator*, transl. H.M. Hubbell, Loeb Classical Library, London, 1952, para. 71,74; See also the discussion in DO I. 126-40, and Hariman p. 151.

45 Cicero, like Aristotle, sees the importance of observing decorum and the self-scrutiny that goes along with it, as obligatory over the entire course of one's life, and not just when one is a youth: 'When...someone has adopted a plan of life entirely in accordance with his nature (if it is not a vicious one) let him then maintain constancy - for that, most of all, is seemly...' (DO, I.120).

instrument for the good of the commonwealth. This runs against Plato's views on rhetoric, who has Socrates in the *Gorgias* proclaim that oratory is 'a spurious counterfeit of a branch of the art of government'.⁴⁶ Socrates defines it as 'pandering', which is 'no more than a knack acquired by routine', devoid of any inherent subject matter and without access to the truth - it is to the soul 'what cookery is to the body'. (para. 463; 465)

Cicero on rhetoric is closer to Aristotle on rhetoric than Plato, though with important differences. For Aristotle, rhetoric was 'the faculty of observing in any given case the available means of persuasion...the power of observing the means of persuasion on almost any subject presented to us' (1355b).⁴⁷ One must know what to say and how to say it, how to adapt to the circumstances presented, and to use all the available means of winning over an audience. Instead of being hived off from philosophy, rhetoric for Aristotle is a counterpart of the dialectic, though unlike Cicero he ultimately values the latter more } 7 than the former. For both, attention had to be paid to the way in which a speech was delivered and the particular beliefs and idiosyncrasies of the audience to whom it is addressed. Aristotle insisted on the use of language that was lucid and clear, since 'speech which fails to convey a plain meaning will fail to do what speech has to do'. (1404b) It must have an economy of style, paring down distraction, and presenting a clear, concise, and plausible case: 'The right thing in speaking really is that we should be satisfied not to annoy our hearers, without trying to delight them; we ought in fairness to fight our case with no help beyond the bare facts; nothing therefore should matter except the proof of those facts'. (1404a) Though not as dramatic as Plato's banishing of the poets (and their language)⁴⁸ from the Republic,

⁴⁶ *Gorgias*, transl. Walter Hamilton, Penguin Books, 1986, 463 (p. 44).

⁴⁷ 'Rhetoric' in *The Complete Works of Aristotle - Volume 2*, ed. Jonathan Barnes, transl. W. Rhys Roberts, Princeton University Press, 1984.

⁴⁸ Of course the case of the banishment of the poets is not as clear cut as I seem to imply in this sentence, as is evident from reading the *Phaedrus*. See a brilliant discussion of this tension in Martha Nussbaum, *The Fragility of Goodness; Luck and Ethics in Greek Tragedy*

Aristotle does seek to reign them in, insisting that for any serious discussion of political affairs, clarity and simplicity should prevail over 'expressiveness'. It is less a performance in the art of persuasion than it is a duty to lay down the facts, or at least the plausible possibilities, for an audience to see and decide for themselves. Cicero follows Aristotle quite closely here and in other ways, and his major work on rhetoric - *De Oratore* - could be said to be basically an 'Aristotelian' dialogue.⁴⁹ There are important differences though, which I want to bring out.

First of all, the sense that we find in Plato and Aristotle that rhetoric is somehow secondary to the real importance of philosophy (less so in Aristotle's case, admittedly), is utterly absent in Cicero. Rhetoric is implicated in all aspects of political deliberation and conduct, and is fundamental to the very origin of society - at least according to the story Cicero in the *De Inventione* of men being transformed them from 'wild savages' into a 'kind and gentle folk'.⁵⁰ Not only is the power of language affirmed in the creation of society, but it is crucial for society's continued existence since language itself is a form of government, a political style consisting of a 'repertoire of signs and rules for their usage that confer meaning upon the practices of governance'. Hariman interestingly identifies a 'republican style', a style designed to maximize the opportunities inherent in republican practices of government.⁵¹ Political utterances become performative rather than merely descriptive; to describe the world is to change it. Words become the deeds of republican governance, arousing citizens to perform the just acts and duties for the good of the *concordia ordinum*. This kind of persuasion - the republican style - requires more than just clarity of speech, since 'nobody ever admired an orator for correct grammar...no one ever sang the promises of a speaker whose style succeeded in

and *Philosophy*, Cambridge University Press, 1986, especially pp. 200-27.

49 For a general discussion of this and of the history of rhetoric in general, see James J. Murphy, *Rhetoric in the Middle Ages; A History of Rhetorical Theory from Saint Augustine to the Renaissance*, University of California Press, Berkeley, 1974.

50 *De Inventione*, transl. H.M. Hubbell, Loeb Classical Library, 1949, 1.2.3.

51 Hariman 1989, p. 147.

making his meaning intelligible to his audience'. (DOR, III.52)⁵²

Instead, it requires a style which is 'ornate' - an 'expressive' or 'artistic' style - an eloquence which people 'wildly applaud' and gives them 'a thrill' (DOR, III. 53). These passages in DOR are in a way a direct commentary by Cicero on Aristotle. Sticking only to the facts (or plausible possibilities), and thinking only of speaking clearly and briefly are not ways of getting into people's hearts (and conduct), and moreover, encourages people to think that merely mastering a rhetorical technique is sufficient to carry the day. Eloquence, according to Cicero, is more than just obeying a set of rules: 'if you take my advice you must treat with derision and contempt all those persons who suppose that the rules laid down by rhetoricians now so called, have enabled them to compass the whole range of oratorical power, but who have not so far succeeded in understanding what character they are appearing in or what it is that they profess'. (DOR, III.54) Eloquence is one of the 'supreme virtues', a faculty with a 'beauty and distinction in outward appearance'. The genuine orator does more than simply compass the facts, he gives expression to the 'thoughts and purposes of the mind in such a manner as to have the power of driving the heavens forward in any direction in which it has applied its weight'. For Cicero (and Aristotle) rhetoric is a powerful instrument and thus dangerous too, and it needs to be carefully controlled, lest 'fluency of speech' be bestowed upon individuals bereft of integrity and wisdom; if it is 'we shall not have made orators of them but shall have put weapons into the hands of madmen'. (DOR, III.55-6)

According to Cicero (above all in the *De oratore*) and Quintilian (in his *Institutio oratoria*), the general task of the orator was to teach, to please, and most importantly, to move the audience he addressed. He had three general kinds of speeches at his disposal. Firstly the forensic or judicial type used in a court of law and involving the proof or disproof of a particular charge or accusation. Secondly the deliberative

52 *De Oratore*, transl. H. Rackham, Loeb Classical Library, 1942. (Book III). Hereafter DOR.

type, which was used mainly in political contexts, where emphasis lay on discussing policy or persuading an audience to pursue a particular course of action. Thirdly was the panegyric or demonstrative type, which involved an oration of praise or blame of some individual or action. The composition of these speeches was further subdivided into five constitutive parts: *inventio* (the discussion or discovery of material), *dispositio* (its structure and arrangement), *elocutio* (its formulation and stylization in language), *memoria*, and *pronuntiatio* (the delivery). Each type of speech thus had a style and delivery appropriate to itself, all the parts of which had to be strictly observed, and governed by the decorum of the situation within which one was placed. As well, following the *De oratore*, eloquence was always to be adapted to the capacities of the common members of the audience and to the language of everyday life, not only in order to convey the message as clearly as possible, but to signal that the orator shared the common life of the community and accepted its standards.⁵³

There was also the question of the content of the speech. Were these rules simply tools to be applied to whatever topic the orator happened to come across? Could the orator move beyond the mechanics of rhetoric to uncover the real truth of a proposition, or provide insight into complex philosophical issues? Here, rhetorical culture broke sharply with what had passed for 'traditional philosophy', whose concern had always been to go beyond what it considered to be mere appearances. Accordingly, rhetoric could never be anything more than surface noise, gliding over subterranean truths and essences, and thus forever inferior to the intrinsic difficulty of real philosophy. In the *Phaedrus*, Socrates claimed that no one could speak properly about anything unless he had a knowledge of philosophy, and that there could be no kind of understanding worthy of possessing which was anything but a philosophical understanding - i.e one that went beyond

53 DOR 1.iii.12; In *De finibus* iv. 6-7, Cicero criticizes Stoic rhetoric for not using everyday language. Aristotle placed a similar emphasis on adapting public speeches to the particular circumstances of the audience, *Rhetoric*, ii.13, 1390a25ff.

merely rhetoric.⁵⁴

Being the good orator that he was, Cicero admitted the central claim of the argument against rhetoric, but then turned it around to his own advantage. Oratory was inexact and sometimes inconsistent, but it had to be so in order to be effective, and in being effective it enhanced liberty and promoted and protected the common good.

The broad scope of this 'moral science' meant that the orator had to be not only technically well equipped, but also possess a broad and substantial knowledge of the arguments, opinions, and maxims of the various schools of philosophy. In the late Republican period in Rome this meant a familiarity with the 'old' and 'new' Academics, the Peripatetics, Epicureans, and Stoics. It was the scepticism of the new Academy which best suited the orator, claimed Cicero. Against Zeno, who argued that true perception was of the sort that disallowed the existence of a false version of the same sort ('P' cannot be at the same time 'not P'), the 'new Academics' had argued that such certainty was beyond man, especially with regard to moral philosophy. Similarly, 'hard' Stoicism which allowed only for the good of *honestas* to be paramount above all other concerns of daily life, however admirable, was considered so detached from the ordinary experience of the community that it was unlikely to convince, certainly wouldn't please, and most importantly wouldn't move individuals to act on it. Peripateticism, on the other hand, did allow for more than just the highest and most virtuous good, and that in addition to the knowledge of the good, bodily health and external circumstances also contributed to a 'well-lived' life.⁵⁵

The centrality of rhetoric to the 'republican style' also meant the denial of any separation between the rhetorical means of expression and the philosophical content they were designed to express. Cicero

⁵⁴ *Phaedrus*, 261A, 265D.

⁵⁵ For an extended discussion of these issues see Jerrold Seigel, *Rhetoric and Philosophy in Renaissance Humanism: the Union of Eloquence and Wisdom, Petrarch to Valla*, Princeton University Press, 1968.

notes that in 'the old days', the same system of instruction imparted education both 'in right conduct and in good speech; nor were the professors in two separate groups, but the same master gave instruction both in ethics and in rhetoric'. The hiving off of one from the other, explains Cicero, took place when some men began to devote themselves, 'entirely to poetry, others to mathematics, and others to music, and others...created a new interest and amusement as dialecticians, and have spent the whole of their time and their lives in the sciences that were invented for the purposes of moulding the minds of the young'. (DOR, III.59) He also blames Socrates for having 'robbed' the general designation of the practice of the liberal sciences as 'philosophy' and separated 'the science of wise thinking from that of elegant speaking, though in reality they are closely linked together'. (DOR, III. 60) Plato enshrined the source from which 'has sprung the...absurd and unprofitable and reprehensible severance between the tongue and the brain' (see the genealogy of this split at DOR III.62-9).

'Real orators' are identified by Cicero as being 'leaders and principals in civil actions and criminal trials and public debates'. They belong to the 'broad estates of wisdom and learning' which have been ignored by 'rhetoricians' supplied with too much leisure, or by those 'who write a few little manuals of instruction in the art of oratory and label them..."Rhetoric"'. (DOR, III.122) 'Real' rhetoric goes far beyond this, and includes the subjects of 'justice and duty, and the constitution of the government of states', in fact, it includes the 'entire field of practical philosophy'. (DOR, III.122-3) The orator must be free from the technicalities of narrow *regulae* and 'roam freely' in a measureless field, so that wherever he takes a step he finds himself 'on his own ground, the resources and expressiveness of oratory readily available'. It is not that the rules of traditional rhetoric are useless, but rather that they can only serve as 'reminders' for the orator as to the standards he must keep, and to maintain him on the course which he has set. (DOR, III.145) The virtue of rules lies not in their production of eloquence,

but in their being deduced from the examples of men who are (or were) 'naturally eloquent'. Eloquence is not a product of theory, but theory is a product of eloquence.⁵⁶ Of course there is basic training which one must undergo to develop the skills of oratory, just 'like that for the games'. (DOR, I.146) The control and training of the voice, proper breathing, appropriate gestures, and even the tongue itself, must all be practised, and we must consider 'whom we are to take as patterns, *whom we should wish to be like.*' (my emphasis) And here Cicero introduces a literary comparison he would invoke again in Book I of DO (see above), claiming that one has to study 'actors as well as orators' so that bad practice does not lead to some 'inelegant or ugly habit'.

The fusion of eloquence and wisdom thus begins to take a more definite shape. Along with the limitless range of the orator, his technical skills are supplemented by a critical (sceptical) spirit courtesy of the New Academics. To paraphrase Seigel, the ideal orator (for Cicero), was stoic in his most philosophical moments, peripatetic in ordinary moments, and a sceptic at most times.⁵⁷ Cicero's texts themselves were a source of sceptical ideas in the Renaissance, especially book II of his *Academica*, where a coherent and convincing sceptical argument is presented in full working order. ('Antiochus's attack on scepticism expanded and answered') Of course, the full impact of the revival of scepticism was not felt until the second half of the sixteenth century, and then mainly in Northern Europe rather than in Italy. With the recovery of the texts of Sextus Empiricus in mid century, the sceptical movement picked up real momentum, and the scepticism of Cicero was noted more often.⁵⁸

56 (DOR, I.146): 'eloquence is not the offspring of the art, but the art of eloquence'.

57 Seigel, 1968, p 29. Cf. Tuck 1993, pp. 6, 9.

58 The connection between the *Academica* and the rise of scepticism in the late Renaissance is discussed by Charles B. Schmitt, *Cicero Scepticus; A Study of the the Influence of the Academica in the Renaissance*, The Hague, 1972: 'The Recovery and Assimilation of Ancient Scepticism in the Renaissance', *Rivista Critica di Storia della Filosofia*, 27, 1972, pp 363-384: 'The Rediscovery of Ancient Scepticism in Modern Times', *Reappraisals in Renaissance Thought*, ed. Charles Webster, Variorum Reprints, London, 1989, pp 225-251. For the importance of ancient scepticism to the seventeenth century see Richard H. Popkin, *The History of Scepticism from Erasmus to Spinoza*, Berkeley, University of California Press,

Rhetoric is 'so potent a force' that it embraces the origin, development, and operation of the virtues, duties, and 'all the natural principals governing the morals and minds and life of mankind, and also determines their customs and laws and rights, and controls the government of the state'. This is the 'rhetorical universe of discourse':⁵⁹

Whether its subject is the nature of the heavens or of the earth, the power of the gods or men, whether it speaks from the well of the court or the floor of the house or from the bench or rostrum, whether its object is to move men to action or to instruct them or to deter them, to excite them or to curb them, to fire them or to calm them down, whether it is to be delivered to few or to many, amongst strangers or among friends or by oneself, the flow of language though running in different channels does not spring from different sources, and wherever it goes, the same supply of matter and equipment of style go with it....it is impossible to achieve an (ornate) style without first procuring ideas and putting them into shape, and at the same time...no idea can possess distinction without lucidity of style...(DOR,III.23-4)

Eloquence and rhetoric are empowering forces in political life, which move men to action, display the skill and knowledge of leaders, and fix the conception of self in the mind's eye of the speaker and the public eye of the *res publica*. If consensus in a Republic is the grounds for action, then the powers of speech and political ideas must be embodied in the personality of the leadership - they must become *epitomes* of good government (and this is precisely what Cicero himself sought to become). Politics involves technique because successful political action depends upon the correct selection of the means by which one becomes visible before the public via virtuous conduct; to invent a public character is also to *create* a public.

The importance of rhetoric brings us back to the Ciceronian self. Though far from being a rejection of any notion of a 'deep self', the Ciceronian self becomes a matter of playing a role in order to establish a reality (or context) which follows from that role. As Lanham has put it in relation to the literary rhetoric of the Renaissance, 'acting establishes

1979 (revised ed); 'Theories of Knowledge', in Charles Schmitt et al. ed., *The Cambridge History of Renaissance Philosophy*, Cambridge University Press, 1988, pp 668-684.

Perhaps though, Popkin overemphasizes the importance of scepticism to seventeenth century philosophy and political theory, or at least ignores the rhetorical context I have been sketching here. Rhetorical and sceptical strategies emerge alongside each other throughout the Renaissance and early modern period, and in many ways are deeply connected. Tuck 1993, chapters 1-2 *passim*, especially at pp. 48-63, is now essential reading for this history.

⁵⁹ Cf. Cumming Vol I. p.317.

the self' and expression sustains it: 'Self conscious posturing attempts to keep faith with dramatic reality. So does language which reminds us it is a language, reminds us that we see only by means of a language'.⁶⁰ In Cicero the self composes itself by composing a public reputation, and is a contingent self insofar as rhetorical discourse necessarily deals with the whole range of human action and choice. Yet one's reputation is at the same time a way of anchoring oneself amongst the hurly-burly of republican politics. It is not aspiring to be 'shallow', but to recognize that politics cannot be made to fit the clean lines of philosophy, a point Cicero makes vividly when complaining that Cato often speaks to the Senate 'as though he were living in Plato's Republic instead of the cesspool that is Rome'. (Att. 21) Cicero's letters are the marginalia of such a public self, 'they become an explicit meditation on the other texts and so a medium of understanding'.⁶¹

We must be careful however not to overemphasize the vacuity of the Ciceronian self, or the ease of its 'dance of engagement and disengagement' with the rhetorical universe. According to Cicero, we should never act out of character. Everyone must come to know their own talents and be a sharp judge of their own good qualities and faults, and like actors, choose only those roles best suited to themselves. (DO, I. 114) The theory of decorum as a whole presupposes a particular social structure, with particular social roles correlating with distinct 'styles of living', each of which have to be chosen, cultivated, and maintained through sound instruction and habituation.⁶² Social roles have real weight and importance as bearers of determinate functions, and as expressions of our common rational, moral agency - our personhood. As Gill argues, the '*De officiis*...presents *officia*, duties or

60 Richard A. Lanham, *The Motives of Eloquence; Literary Rhetoric in the Renaissance*, Yale University Press, 1976, p. 13, 28.

61 See Hariman's discussion (p. 147-8) of an example from a letter of Cicero's: 'I thought I saw a chance to cut back license and teach the young folk a lesson. So I played fortissimo and put my whole heart and brain into the effort...in the hope, I won't say of reforming our society, but at least of healing its wounds'.

62 Cf. Gill, 1988, p. 193.

obligations, as grounded in the nexus of roles, *mores*, and *instituta* that goes to make up the culture, and also as grounded, ultimately, in a theoretical conception of human nature at its best'.⁶³ Ciceronian (Roman) society was above all a strictly ordered one, with a strong emphasis upon as little movement between ranks as possible, and wholly against any policies that would alter the relation between political labour and economic power (i.e. redistribute wealth from the top to the bottom). 'Human nature at its best' was clearly identified with the conventional social values and attitudes of the aristocratic class of Greco-Roman society. Though without the old money of the senatorial class to support him, Cicero sought to create a public *persona* which would provide him with the *dignitas* his family name alone could not, and he was representative of only a very select group in Roman society. The Ciceronian self was also a governing self - of *itself* and the Republic - which in the DRP is embodied in the model statesman whom Scipio longs to find, and in the DO in the magnanimity of the well educated and well trained citizen resisting the unjust actions of a tyrant.

Book II of DO reintroduces the issue of political control discussed in the DRP and the DOR, but as I have mentioned above, with a greater emphasis on a more innocuous individual rather than a 'model statesman' or the orator as 'culture-hero'.⁶⁴ Book II also introduces a discussion about self-interest and virtue, and how 'that whatever is honourable is also beneficial', and how men will achieve what they want by 'honourable policies and just deeds, and not by deceit and wickedness'. (DO, II.10) It is the 'special property or virtue' to 'make its own the hearts of men' and to enlist them in its own service, with the wisdom and virtue of outstanding persons inspiring others to be 'prompt, ready, and devoted to assisting our advancement'. (DO, II.17) There are many ways in which men submit themselves to the

⁶³ Gill, 1988, p. 196.

⁶⁴ This phrase is taken from Brian Vickers, 'Rhetoric and Poetics' in Schmitt et al, *CHRP*, Chapter 20.

command of others - by goodwill, through admiration of their greatness, through fear, hope for personal gain, or simply because they have been paid to! (DO, II.22) Nothing is more suited to 'protecting and retaining influence' than to be loved on account of one's greatness and glory, a position achieved (in this rhetorical universe of discourse) by the ability of the personality to 'make its own the hearts of other men'. Fear can not work consistently since influence can not withstand the hatred of a large number of men and 'freedom will hit back more fiercely when suspended than when she remains undisturbed' - the power of men's hatred to destroy can never be underestimated.⁶⁵ We achieve what we want most easily in both private and public affairs by embracing the course that 'extends the most widely', where 'fear is absent and love preserved'. (DO, II.24) For Cicero it is a moral point, consistent with his understanding of virtue and the decorum of governance, but also a *practical* point - it is the best way (the only way) to get what you want. Here is an important point of disagreement (as we will see) between Cicero and Machiavelli.

Cicero shifts the discussion away from individuals in general to a few 'outstanding men', who are not quite the same as the model statesman of the DRP. He does this in order to introduce a discussion of glory and an approach to the 'masses' which enables one to 'infiltrate' their hearts. The goodwill of cities is secured by the 'very reputation and rumour' of liberality, of beneficence, of justice, and of keeping faith, since the very appearance of these virtues compels people to love them. (DO, II.32) Faith is placed in us by the perception of our having 'good sense' and justice combined, because we have faith 'in those whom we judge to understand more than us, whom we believe can foresee the future, able when the issue arises and the crises arrives, to settle the matter, adopting the counsel that suits the circumstance'. Justice has the greatest ability to 'win faith', since the more cunning and

65 Fear dissolves the bonds of human fellowship, leaving the city empty, 'only [its] walls remain standing - and they themselves now fear the excesses of crime. The republic we have utterly lost.' (DO, II.29) Machiavelli would respond directly to this in *Il Principe*.

clever a man, the more he is 'hated and suspected if deprived of the reputation of integrity'. (DO, II.34) Finally, men judge worthy of their honour and admiration those who 'excel others in virtue', resisting vices that others cannot, and who 'look down with a great and lofty spirit upon prosperity and adversity alike'. (DO, II.37) Above all, justice is most admirable to the masses because it is on account of this virtue alone that men are called 'good'. (DO, II.38)

There is no way to achieve glory, no short cut, other than to behave in precisely the way that one is what one wishes to be thought as being:

'True glory takes root and spreads its branches...everything false drops swiftly down like blossom; and pretence can never endure'. Yet we must work at it, so that we might 'as easily as is possible' be seen to be what we are, especially those born of famous stock (like young Marcus) whose every word and deed, and thus personality, will be bathed in 'so brilliant a light'. (DO, II.44) A young man can achieve glory by remaining modest, attaching himself to a great man, and associating himself with the good of the political community. Speaking and debating have the greatest effect when glory is the object, since an elegant and wise speaker engenders admiration and goodwill from the crowd (as we saw above). He can also inspire great admiration by speaking in lawsuits on behalf of the community, or fulfilling the obligation of a patron. Defending provides the richest 'yield' of glory and gratitude, especially if the man you assist, '*appears to be* overwhelmed and oppressed because of the influence of some mighty individual'. (my emphasis) Though one should never threaten the civil status of an innocent man by prosecuting him, one should not always avoid defending guilty men (provided they are not wicked or 'impious') - 'The masses want it; custom permits it; humanity tolerates it'. (DO, II.51) In other words, consider every opportunity presented as a means of increasing one's yield of glory, whatever the circumstances. The path to glory (and thus political control and *libertas*) is through the conduct and discourse of the public man. It is not a path via the

heavens, but taken in the 'brilliant light' of the *res publica*, a path which leads from the mind of the individual to the *fora* of the city.

For Socrates, to know the good is to love it and to inevitably pursue it. For Cicero the path is less straight. The good has to be visible in our conduct, private and public, and since most of us are prone to bad habits and poor training, our actions are always capable of being both good and bad. Thus, throughout his work, and especially in the *DRP*, *DL*, *DOR*, and *DO*, Cicero is concerned with the 'science of the art of government and the training of peoples' - beginning in the *DRP* in the model statesman's ability to 'force public opinion' and inculcate principles by 'systematic training', and ending in the *DO* with a concern for the eloquence of individual conduct in winning the hearts of men for glory and the good of the republic. Education, work, even religion⁶⁶, are all employed in the creation of consensus under the 'republican style' of political agency and government.

1.4 To stylize a freedom

In the *Aenid*, Virgil wrote that it was the work of the Romans 'to rule the peoples with your sway - these skills shall be your arts: to impose the habit of peace, to spare the conquered and put down the proud'. Insofar as ruling was the great art of the Romans⁶⁷, Cicero was one of

⁶⁶ Cicero had no doubts about the social utility of religion in relation to the regulation and pacification of conduct and the maintenance of social order, though he had a few personal doubts about the nature of divination itself: 'we must persuade our citizens that the gods are the lords and rulers of all things, and that what is done is done by their will and authority; that they are likewise great benefactors of man, observing the characters of every individual, what he does, of what wrong he is guilty...who will deny that such beliefs are useful when he remembers how often oaths are used to confirm agreements, how important to our well being is the sanctity of treaties, how many persons are deterred from crime by the fear of divine punishment, and how sacred an association of citizens becomes when the immortal gods are made members of it'. (*DL*, II.15-16) For his doubts viz divination see *Div. II*. 28, 43, 70; Wood p. 173.

⁶⁷ See Mann 1986, Chapter 9 *passim* for a discussion of the general character of the Roman territorial empire. He argues that its great success was in part due to its ability to universalize its ruling class each time a territory was gained, as well as the ability to create the 'conditions of cooperation' and cooption through the 'military keynesianism' of its 'legionary economy'.

its great theorists. The 'influence' of Cicero for later centuries is a messy thing to map minutely, but we can list a number of areas within which he might figure - republicanism, the role of rhetoric, natural law, constitutionalism, private property, and discussions concerning the state. I would like to add another, which I have discussed above, and which I will re-examine in different contexts (and centuries) in the pages to follow. This is, the 'art of government and the training of peoples', to which Cicero devoted so much time and which is a critical element of his political thought and practice.

Libertas is never disconnected from any of these issues, never isolated as simply the absence of obstacles, or as occurring automatically once one is plugged into some harmonious whole. The tension between liberty and authority is never resolved in Cicero, but instead sublimated in the shift between the DRP and the DO, from the libertas provided by the model statesman to the libertas of the individual resisting tyranny and doing good for the benefit of his fellow man. Cicero's republicanism was absorbed - never simply or reductively - into the language of liberty as it progressed through the Renaissance and into the seventeenth and eighteenth centuries. He was, of course, only one layer of a *mille feuille* of discourse, but an important one and one which was never quite extinguished. In the chapters that follow, we pick up its trail in the humanist and civic humanist texts of both the republican city states and post-reformation Europe, leading eventually to our discussion of seventeenth century political theory, where we delve particularly into the work of another prominent theorist of political liberty (and great admirer of Cicero) - John Locke - to see what survives and what has not, and what new streets have been added to our city of liberty.

Chapter 2: Humanism's Change of Heart

2.0 Introduction

I have laid out the Ciceronian argument in some detail in order for it to act as a sort of ballast to the whole of part 1. I could (and perhaps should) have also done the same for Aristotle, though here I am accepting the thrust of recent scholarship that the Ciceronian character of early and late Renaissance humanism is fundamental to the republican political theory of the Italian city-states, and the subsequent ideological and practical conflicts over its transformation in the face of the changing context in which it was applied as a governing language.¹ Aristotle is undoubtedly important to this story, and in concentrating on Cicero I do not want to be seen to be ignorant of their complex relations within the matrices of 'ancient prudence'. As a result of two recent remarkable books by Maurizio Viroli and Richard Tuck², our knowledge of the intricate relations and seminal developments between Renaissance and early modern political theory has been enhanced and deepened as never before. The story here is of the emergence of a new language of politics and 'art of government', against and beyond the Ciceronian emphasis on the exercise of the classical political virtues for the good of the respublica; i.e. the emergence of a 'reason of state'. The enormous complexity of this transformation is mapped with great skill by Viroli and Tuck, and so here I want only to pause and consider the implications of some of their conclusions for my purposes, before moving on.

The essential point that emerges is of a split between an old and new humanism, based in general on the gradual repudiation of Ciceronian

1 See for example Quentin Skinner, 'Machiavelli's *Discorsi* and the pre-humanist origins of republican ideas', in G. Bock, Q. Skinner, M. Viroli eds., *Machiavelli and Republicanism*, Cambridge University Press, 1990, pp. 121-141. Also Maurizio Viroli, *From Politics to Reason of State: The acquisition and transformation of the language of politics 1250-1600*, Cambridge University Press, 1992, pp. 11-70. For an account of the essentially Aristotelian character of civic republicanism, see J.G.A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*, Princeton University Press, 1975.

2 Viroli 1992; Richard Tuck, *Philosophy and Government: 1572-1651*, Cambridge University Press, 1993.

humanism as the most appropriate governing style in the turbulent and war-torn context of late sixteenth and early seventeenth century Europe. As I mentioned, this is the story of the emergence of a 'reason of state', that is, a rejection of the belief that ruling according to the universal principles of equity and justice are the best means to securing the wealth and honour of the *respublica*. Instead, the good of the 'state' - something less than the epitome of the common good and more in the interests of whoever ruled - was to be pursued according to a rule of 'right reason' constrained only by its capacity to calculate the appropriate means of the preservation of the *stato*. Viroli and Tuck dramatize this transformation by showing how Tacitus displaced Cicero as the key point of reference for the 'new humanism', particularly as imperialist, religious, and civil wars began to spread across Europe. The Ciceronian language of politics no longer suited the times and failed to capture the real workings of princes and their courts. As early as the first decades of the sixteenth century, Francesco Guicciardini was claiming that 'self-interest' governed most men (and rarely honour or glory), and that all political power was rooted in violence.³ Moreover it was a language of politics that was not meant for citizens (since the city didn't belong to them), but for the prince and his entourage: the 'bad habits of liberty' had to be eradicated lest the citizens develop an appetite to rule the state which would only result in its dissolution.⁴ This 'melancholy' and sceptical attitude to political

3 On the rise of Tacitism, see Viroli 1992, pp. 258-9; Tuck 1993, pp. 39-45. On Guicciardini as a key figure in the rise of 'reason of state' - even more so than Machiavelli - see Viroli 1992, chapter 4 *passim*; cf. Tuck 1993, p. 38. The key text here is the *Ricordi (Maxims and Reflections of a Renaissance Statesman)*, transl. Mario Domandi, New York, 1965).

4 See Trajano Boccalini's marvelous *Ragguagli di Parnasso* (1612-13) in which he shows how politics is nothing but the art that princes use to preserve their states, and has nothing to do with reforming corrupt cities or transforming their moral identities. There were some exceptions. 'Venetian liberty' was made possible through their exceptional and unusual constitution, the public spiritedness and modesty of their noblemen, their concern for peace over expansion, and most of all the impartial justice which ruled them all. But this was unique; liberty required a 'genius affecting quietness in all its operations, a soul which knows how to submit itself to a Citizen...to prefer the public good before private interest...to possess the wealth of a prince, and have the mind of a simple citizen, capable of accepting the will of the citizenry' (c.I, Adv. 39; Viroli 1992, p. 266). This existed nowhere else and it was futile to think it could be implemented, and it was better to realize the world for what it

life was confirmed by the clipped and sparse style of Tacitus' histories, where politics was nothing but the realm of deceit and ambition, and politicians compelled to seek absolute power through whatever means available. For Tuck the essential developments for the emergence of this new humanism is an increasing philosophical scepticism, an interest in ancient Stoicism (particularly in its Senecan variants), and the gradual identification of 'self-interest' as a key factor in politics, and thus an indispensable mode for its interpretation. This is perhaps best articulated in the work of Justus Lipsius, who set out a neo-Stoic moral philosophy advocating a stern program of self-preservation and 'constancy' (or 'emotional horticulture' as Tuck calls it) as a way of protecting one's self-interest and preserving civil peace, which in turn justified the prince preserving himself at all costs, including taking actions contrary to any set of classical moral principles.⁵ Justice has very little role in these discussions, and is almost wholly overwhelmed by the recognition of the role of 'necessity' in understanding and exercising political action, and the need to *secure* the state by whatever means against internal and external threat. Thus the old notion of politics as the art of ruling justly according to right reason, is replaced by an art of ruling which is nothing more than the skillful conduct of a ruler according to whatever is necessary to preserve his regime.

There is another complicated story of attempts to join the two, or to at least distinguish between 'good' reason of state and 'bad', but I shall not touch on that quite yet. Dr. Tuck has shown how the new humanism of the late sixteenth and early seventeenth century, and its attack on the liberty of the ancients, forms the base of not only early Enlightenment politics but modern politics *tout court*. I want to pause

was and make the best of it. The other exceptions were the city leagues of the Hanse (Germans), Switzerland, and the United Provinces, who all resisted imperial expansion and concentrated on achieving free republics amongst themselves, which was wholly in their interest to do so. See the discussion in Tuck 1993, pp. 102-3.

5 See Tuck 1993, pp. 45-64. Cf. Gerhard Oestreich, *Neostoicism and the Early Modern State*, Cambridge University Press, 1982.

here and consider the scene just before the widespread ascendancy of the new humanism and its sceptical and anti-Ciceronian concern with moral conduct. I want to do so in order to come to grips with the background which was lost (or at least in need of recovery) by the time we arrive at attempts to 're-moralize' the political sphere, or at least move beyond explaining or justifying all political action in terms of reason of state and self-interest. The problem would become (to put it crudely) one of reconciling the need for discipline, which for the theorists of *ragion di stato* meant an *external* disciplining force (i.e. in both the sixteenth century sense of a prince's manipulative defence of his *stato*, and the later more impersonal and abstract notion of the state), with a belief in the natural liberty of individuals to consent in some way to the establishment of this regulatory force. In my discussion in this chapter and the next, I want to concentrate on not only the political theory of Machiavelli, currently the site of so much scholarly attention and who seems to straddle the old and new humanism, but also certain aspects of the rise of 'Christian humanism' in northern Europe, a 'world picture' that I believe is important for our consideration of the themes of liberty and self in the seventeenth century in the chapters ahead.

2.1 Forms of Ciceronianism

The distinguishing characteristic of the humanist movement was its placing of 'humanity' at the center of philosophical and ethical life, resulting in not quite the 'disenchantment' of a previously mysterious world, but a new view of it through a different set of spectacles. As a fresh and flexible language it was appropriated by a variety of individuals and groups who sometimes pursued diametrically opposed ends. Yet one aspect which was shared by all of them was its rhetorical basis, and the huge emphasis placed on the role of eloquence in relation to wisdom. The humanist movement was, above all, a

rhetorical movement.⁶

The source for the rhetorical nature of humanism was primarily Cicero, and to a slightly lesser extent, Quintilian.⁷ However it is important to not simply equate Renaissance humanism with Ciceronian rhetoric, since a wide range of pre-humanist writers, such as Orfino de Lodi, Giovanni da Viterbo, and Brunetto Latini, relied on the moral and political lessons of Cicero from the *De inventione* and the *De officiis*, and the importance of the combination of eloquence and wisdom.⁸ The Ciceronian, and generally Roman, character of political theory in the Renaissance is thus more of a matter of continuity than is generally thought. However, the key issue, as we know from the studies by Tuck and Viroli, was the question of the

6 On humanism in general, see Eugenio Garin, *Italian Humanism: Philosophy and Civic Life in the Renaissance*, trans. P. Munz, New York, Harper and Row, 1965; Hans Baron, *The Crisis of the Early Renaissance*, 2 volumes, Princeton University Press, 1966 (rev. ed.).

7 C. Lenient, *De Ciceroniano bello apud recentiores*, Paris, 1855; R. Sabbadin, *Storia del Ciceronianismo*, Turin, 1885; I. Scott, *Controversies over the Imitation of Cicero*, New York, 1910; Th. Zielinski, *Cicero im Wandel der Jahrhunderte*, Leipzig (third edition), 1912; H. Baron, 'Cicero and the Roman Civic Spirit in the Middle Ages and Early Renaissance', *Bulletin of the John Rylands Library*, xxii, 1938, pp 72-97; Hunt, *The Humanism of Cicero*, 1954; A. Michel, *Rhetorique et Philosophie chez Cicéron*, Paris, 1960; J. Seigel, *Rhetoric and Philosophy in Renaissance Humanism*, Princeton, Princeton University Press, 1966; N. Streuver, *The Language of History in the Renaissance*, 1970; Brian Vickers, *In Defence of Rhetoric*, Clarendon Press, Oxford, 1987; 'Rhetoric and Politics' in *CHRP* (1988), pp 715-744; See Viroli 1992, pp. 248-9 on the relation between rhetoric and politics as the 'reason of state' language of politics begins to take over from the old Ciceronian humanism.

8 Orfino de Lodi, *De sapientia potestatis* (1240's); Giovanni da Viterbo, *Liber de regimine civitatum* (c. 1253); Brunetto Latini, *Li Livres dou tresor* (c. 1260's); and the anonymous *Occulus pastoralis* (c. 1220's). All of these were specialized treatises on city government in a strongly Ciceronian vein. For an extended discussion of this pre-humanist context see Quentin Skinner's fascinating, 'Ambrogio Lorenzetti: The Artist as Political Philosopher', *Proceedings of the British Academy*, lxxiii, 1986, pp 1-56; 'Machiavelli's Discorsi and the pre-humanist origins of republican ideas', in *Machiavelli and Republicanism*, ed. Gisela Bock, Quentin Skinner, and Maurizio Viroli, Cambridge University Press, Cambridge, 1990, 121-141. The implication of Skinner's argument that Latini *et al* in the thirteenth century followed the Ciceronian analysis in the *De inventione* and the *De officiis* with the 'greatest of fidelity' (18-19), is to deny Seigel's claim that it was only with Petrarch that 'discussion of ancient philosophy followed the model provided in Cicero's writing'. (1966; 39) For Skinner, the thirteenth century *dictatores* literature, 'embodies an ideal of citizenship and a vision of self governing republicanism, that predates by at least a generation the earliest availability of Aristotelian texts'. (1988, p. 56) Thus it was *this* view of citizenship which broadened into the 'civic humanism' of the Renaissance, and not that of the 'Aristotelian revolution' of later centuries. Seigel's replacement of Baron's distinction between Petrarch and Bruni with that between the thirteenth century *dictatores* and Petrarch, is now itself superseded by a clear continuum between the pre-humanist Ciceronian theories of republicanism, the Ciceronian humanism of Salutati and Bruni, and the 'classical republicanism' of Machiavelli and to a lesser extent, Guicciardini.

form of Ciceronianism to endorse. By the late fourteenth century, Petrarch's 'active leisure' was being transformed into the virtuous action of a dedicated citizen. Two examples are Coluccio Salutati's admiration for Cicero's civic personality (against Petrarch's disgust), and his student Pier Paolo Vergerio's imagined Ciceronian reply to Petrarch's lament: 'my otium, my age, position, and destiny intended me for a man who was to live his life in the midst of activity'.⁹ Later, in the first decade of the fifteenth century, Francesco Barbaro saw the task to be to 'bring philosophy out of the gloomy depths of the studies and out of scholarly leisure into the fighting line and center of conflict'.¹⁰ One of the key instruments in doing so was the art of rhetoric, and the union of eloquence and wisdom in defence of the city and the promotion of the public good. Though Petrarch had recognized the rhetorical basis of classical culture, he balked at the profoundly political consequences of Cicero's 'orator'.¹¹

As we know, Cicero placed enormous importance on the role of rhetoric in the *res publica*. Both thirteenth century *dictatores* and Renaissance humanists absorbed the Ciceronian emphasis on rhetoric as a discipline to be learned and applied. Cicero's *Topica*, *De partitione oratorica*, and *De oratore*, attracted numerous commentaries, as well as the *Institutio oratoria* of Quintilian, and to a lesser extent, Aristotle's *Rhetoric*. Renaissance theorists clearly identified the connection between rhetoric, politics, and law, not only through the study of Cicero's treatises, but also in the accounts and histories of the Greek *polis* and Roman republics. Ratio and oratio (as Cicero explained in the *De oratore*) not only bound human communities together, but helped define them as well.¹² By the turn of the fifteenth century this way of thinking had become so influential that it was even written

9 Vergerio, *Epistolerio*, in Baron, 1938, p 89.

10 In Baron, 1938, p 92.

11 Of course Petrarch only had limited access to Cicero's texts. A complete edition of *De oratore* was not available until 1421. R. Sabbadini, *Le Scoperte dei Codici Latini e Greci ne secoli xiv e xv*, Florence, 1905; Baron, 1938, p 95; Seigel, 1966, p 60.

12 DOR 1.8.30.

into the statutes of the University of Florence, whereby the 'art of rhetoric' was recognized as being not only 'the instrument of persuasion for all the sciences, but also, the greatest ornament of public life'.¹³

The revival and extension of Ciceronian rhetoric brought with it a social *persona* - the orator as culture hero - and more particularly, the orator as great political leader. A ruler could not rule by *ratio* alone: the common good could not be protected or fulfilled without it being put forth in *oratio*. Rhetoric translated ideas into action, it moved the will of individuals to act, and thus ultimately, 'reason, virtue, and the social order all depended on the right use of language'.¹⁴ Though Renaissance theorists might have balked at the sceptical implications of some of the arguments in Cicero's texts, at least until later on in the sixteenth century, they rushed to embrace his reunification of eloquence and wisdom, and more generally, the social and political implications of the rhetorical culture. Eloquence was to be an indispensable aid to practical ethics, and the stress on rhetoric brought with it an intense emphasis upon the will as a philosophical problem, and a deep interest in voluntarist psychology.¹⁵

In Italy, the centers of humanist study, Florence and Padua/ produced a number of theorists who took up and defended this form of Ciceronianism against 'ancient philosophy', which claimed that rhetoric was at best, only a superficial tool for the pursuit of virtue, and at worst, utterly subversive of it. Whatever the genre of text, and in the Renaissance this included commentaries, literary biographies, princely advice books, and rhetorical textbooks, the eloquence-wisdom relation was a baseline from which to begin. Rhetoric was imbued with a coherent, general purpose: the moral and social improvement

¹³ Streuver, 1970, p 105; Vickers, *CHRP*, p 727.

¹⁴ Vickers, *CHRP*, pp 729-730. See also his excellent 'The recovery of rhetoric: Petrarch, Erasmus, Perelman', *History of the Human Sciences*, 3, 3, 1990, 415-441, for a comparative survey of three historical instances of the 'recovery' of rhetoric.

¹⁵ For the connection between rhetoric, the will, and voluntaristic psychology, see Streuver, 1970, pp 58-74.

of the people and the Republic.

However, as the fifteenth century progressed, increasing pressure on republican institutions was being felt, particularly outside of Florence and Venice, as the *Signori* expanded and consolidated their ruling power.¹⁶ Donato Gianotti's *Della Repubblica fiorentina*, written after the fall of the Florentine republic of 1530, marks one of the last voices of Florentine republican thought. In it, he champions a republican mixed constitution for Florence which satisfies the three 'humours' of the city: the nobles, the middle class, and the poor. The 'art of the republic' had to moderate the different humours (as opposed to simply satisfying the single one of the *grandi*, as in the 'art of the state'), and to do so, it had to steer men's love from their private affairs to those of public things. This is a difficult task, given the collapse of two previous Florentine republics due to the inability and unwillingness of its citizens to defend them. The reasons why, argued Gianotti, lay in the fact that both republics (1494-1512 and 1527-1530) had failed to guarantee the liberty they promised: too few citizens were actually sovereign, and the magistrates, instead of the laws, held sway. Even the *grandi* lost out, since the low prestige attached to public office meant that they were held in contempt by their fellow citizens. The solution was to redraw a better order of the city, i.e. a mixed constitution with a marked *popular* thrust, as opposed to one tilted in favour of the *grandi*. The *grandi* could satisfy all their desires for true honour and glory (which comes from services to the republic) in the various higher institutions of the republic, such as the Senate and Collegio. Gianotti's discourse is nothing less than a declaration of faith in the capacity of politics, organized around the relation between the public good and liberty, to transform the moral identity of the

16 One should remember too that republican Florentines were vulnerable to accusations of tyranny by their neighbours; Gregory XI in 1375 wrote that they reduced 'the liberty of their neighbours to serfdom' wherever they could. See Rubinstein, 1952, pp 36-41; A. Grafton, 'Humanism and Political Theory', in J.H. Burns ed. (with Mark Goldie) *The Cambridge History of Political Thought 1450-1700*, Cambridge University Press, 1991, p. 26.

city.¹⁷ As Viroli and Skinner have shown us, this is one of the last fully-fledged attempts in Florentine republican thought, and by the second half of the sixteenth century, only Venice could boast any real talk of classical 'civil philosophy' and its practices. Henceforth the belief in virtuous citizens engaging in republican institutions to protect *libertas* became increasingly jaded and disconnected from reality. It even produced a kind of Platonic backlash, especially with the rise of the Medici, which sought practical and philosophical distance from the more strident republican traditions.¹⁸

Prominent humanists were not oblivious to these changes, whatever their ultimate beliefs, and soon many were engaged as political advisors, or wrote political how-to-manuals, or both, for their new masters. These manuals advised on all kinds of matters to do with princely rule, from traditional Ciceronian emphases on upholding justice and ruling with liberality, to advising on the ritualistic aspects of power, such as how a prince should speak, dress, and act in particular situations.

A wedge, then, was inserted between appearance and reality in politics, not for the first time, but perhaps more irrevocably than ever before, and the implications became acutely apparent in subsequent theorizing. The maintenance of appearances became a skill, a virtue, and the loosened connection between the traditional virtues and princely decorum became a source of strength through an increased range of possible action in the name of the *stato* rather than the *res publica*. Political decorum and ritual came to have less to do with public confirmation of virtuous rule, and more with the transformation of the content of virtue itself. Machiavelli is a key figure in all of this, but I shall postpone a discussion of him until later, since in many ways, he is a crucial transition figure between the Renaissance and early modern worlds.

17 Viroli 1992, pp. 219-31.

18 Skinner, *CHRP*, p 424-28.

2.2 'Change of heart': Christian Humanism and the self

I want now to briefly consider the translation of the themes discussed above - Ciceronianism, the self, and *libertas* - in the context of the development of 'Christian humanism',¹⁹ which is fundamental for an understanding of the background of the early modern precursors of liberalism to be considered in future chapters.

The emergence of Christian humanism indicates both a convergence of traditions and a fracture: the assimilation of classical wisdom within a Christian frame of reference, and a tension between corrupted man and the more optimistic picture of humanist man. Christian humanism was never quite a synthesis of outlooks, but at the very least, an uneasy alliance. In their attempt to establish the *philosophia Christi* in the daily lives of individuals, the reformers needed moral sources beyond the rather vague exhortations of the bible. They found some of this detail in the moral treatises of classical antiquity, and in particular, in the works of Seneca and Cicero (especially the *De officiis*).

One continuity between Italian and transalpine humanism was its Ciceronianism, and the emphasis upon the rhetorical nature of human understanding and political discourse. Yet it was a profoundly different kind of Ciceronianism which was appealed to in the north. The importance of elegant stylistics in speech and grammar obtained by a close imitation of key Ciceronian examples, was not so much eliminated, as supplanted by an emphasis upon the purpose of rhetoric and the content of the message being delivered. The point was to apply the lessons of classical ideals to the practical problems of godly living in the sixteenth century, the texts were to be 'servants of

19 This phrase is slightly misleading as Skinner points out, since (most) all (of) the humanists (save Machiavelli) were Christians. However, there is cause to maintain the label when referring to certain northern humanists such as Erasmus, who explicitly related the texts of classical antiquity to the establishment of godly living in the populace in a way that hadn't been done before. See Quentin Skinner, *The Foundations of Modern Political Thought: Volume 1, The Renaissance*, Cambridge University Press, p 232.

Christianity'.²⁰ Erasmus' *Dialogus Ciceronianus* is a good example of this different approach, a 'modern Cicero who busies himself with the same zeal in the field of Christian religion as Cicero did in that of secular things'.²¹ Erasmus wanted to escape from the mere aping of Ciceronian language and style, and emphasized the importance of his main ideas, and crucially, the need to work within the context of one's own societal norms: 'There is nothing to stop a person speaking in a manner that is both Christian and Ciceronian when he speaks clearly, richly, forcefully, and appropriately, in keeping with the nature of his subject and with the circumstances of the times and of the person involved'.²² What it is to be Ciceronian is thus transformed and adapted to the circumstances of early sixteenth century society, whereby one cannot be a Christian without being also Ciceronian: 'he does not speak in a manner befitting his subject...he has no genuine feelings roused by what he is discussing...he doesn't elaborate and embellish themes provided by the faith he professes as Cicero embellished topics provided by his own day and age'.²³ The purpose of studying philosophy and eloquence was to know Christ and to celebrate the glory of Christ; humanist Christianity was an eloquent communication between god and man, and man and man.²⁴ Above all, the most distinctive thing that Cicero offered, argued Erasmus, was not that which lay in the 'outer layer of verbal expression', but 'substance and

20 I am greatly indebted here to Margo Todd, 'Seneca and the Protestant Mind; The influence of Stoicism on Puritan Ethics', *Archiv für Reformationsgeschichte*, 74, 1983, pp 182-99; and her *Christian Humanism and the Puritan Social Order*, Cambridge University Press, 1987.

21 Izadora Scott, *Controversies over the Imitation of Cicero*, New York, 1910, p 79; Charles Bene, 'Erasmus et Cicero', *Colloquia Erasmi Tyronensia II*, pp 571-9; Erasmus, 'Dialogus Ciceronianus', *The Collected Works of Erasmus VI*, ed. A.H.T. Levi, transl. Betty Knott, University of Toronto Press, p 400; Todd, 1987, p 27; Tuck 1990, pp 43-65 (60); and 1993, pp. 20-5; Peter Burke, 'The Spread of Italian Humanism', in Grafton and Mackay eds., 1990, pp. 1-19; Geoffrey Elton, 'Humanism in England', *Ibid*: Brendan Bradshaw, 'Transalpine Humanism', *Cambridge History of Political Thought 1450-1700*, ed. J.H. Burns with the assistance of Mark Goldie, Cambridge University Press, 1991.

22 Levi ed., p 400.

23 Levi, ed., p 447.

24 John Bossy, *Christianity in the West 1400-1700*, Oxford University Press, Oxford, 1985, p 98.

sentiments, in intellectual ability, in right judgement'.²⁵ And it was 'right judgement' to be learned and applied by the prince, clergy, and laity alike, if the reconstruction of the social order, the reformation of Christendom, was to be had. Hence the importance of those classical texts which concentrated on individual and social reformation, which stressed an activist social ideology and civic involvement, along with the spiritual condition of the lay person.²⁶ It is not surprising to find that Erasmus edited and annotated enormously popular editions of the works of Plutarch, Seneca, and Cicero's *De officiis*. It was from Seneca and Cicero that he (and others) drew their understanding of virtue, just like their Italian predecessors from whom they also learned, not of the 'chivalric nobleman' or 'religious contemplative', but the godly layman, 'active in forum and marketplace'.²⁷

The nature of such conduct is explored by Erasmus in his *Enchiridion militis christiani*, 'The Handbook of the Christian Soldier' (1503), where pietas is discussed in a social context, and theology is connected to the ministry and service of the community.²⁸ Coming so closely on the heels of his 1501 edition of Cicero's *De officiis*, the two works can be seen as complementary; 'In the *Enchiridion*', wrote Erasmus in a

25 Levi ed., p 448. Though Erasmus was not anti-rhetoric, as is evident from his *Adages*, a source book of verbal tools to be used in order to make language 'glitter with sparkles from Antiquity, please us with the colours of the art of rhetoric, gleam with jewel-like words of wisdom, and charm us with tidbits of wit and humour'. 'Adages, [i] to lv 100', *Collected Works of Erasmus*, 31, transl. Margaret Mann Phillips, annot. R.A.B. Mynors, University of Toronto Press, 1982, p 10 (LBII78).

26 For the most part though, northern humanists in the early sixteenth century neutralised the potentially subversive aspects of the view of right judgement and virtue being detached from any natural or familial inheritance. Whilst agreeing that the possession of virtue constitutes the only true nobility, they argued that it was simply an empirical fact that the traditional ruling classes happened also to be the most virtuous! It wasn't until the latter part of the century that the static images of the social order and political system began to be seriously challenged, though the seeds were certainly there in Erasmus and in even earlier anticlerical writings. See Skinner, FMPT, vol. i, pp 238-9; Todd, 1987, pp 176-205. See also Anthony Grafton and Lisa Jardine, *From Humanism to the Humanities: Education and Liberal Arts in 15th and 16th century Europe*, Cambridge University Press, 1986.

27 Todd, 1987, p 28.

28 'Enchiridion militis christiani (The Handbook of the Christian Soldier)', *The Collected Works of Erasmus* (66), ed John W. Malley, transl. Charles Fantazzi, University of Toronto Press, 1988.

letter, 'I laid down quite simply the pattern of a Christian life'.²⁹ The point was to instruct not in 'scholastic quibbling, but in good living', to prescribe 'a way of life, not a program of study'.³⁰ Besides, 'who (could) carry the *Secunda secundae* of Aquinas round with him', how could a 'mass of such volumes' ever teach us to live? The good life is 'everybody's business, and Christ wished the way to it to be accessible to all men'.³¹ The first step, as Plato taught, is to know yourself as fully as possible, and Erasmus proposes to set before the reader, as in a painting, 'a kind of likeness of yourself...so that you have a clear knowledge of what you are on the inside and what you are skin deep'.³² Faith must be accompanied by morals worthy of faith, and we find these morals not in the world around us, but in the ancients:

Read through the annals of the ancients and compare them with contemporary morals...the virtue of Phocion, the poverty of Fabricius...the generosity of Camillus, the austerity of Brutus, the chastity of Pythagoras, the unrelenting self-control of Socrates, the integrity of Cato, and a thousand illustrious examples of every virtue, which we may read about in the annals of the Spartans, the Persians, the Athenians, and the Romans, to our own great shame.

One cannot, though, be influenced by big names or social rank, something is not right because the 'ruling class' or the majority do it, 'the only right conduct is that which conforms to the rule of Christ'.³³ The prince must also take heed, since he will not escape the contempt of his public through violence, arms, or body guards, but by an 'uprightness of life, personal severity, and morals untainted by the vices of the multitude'. He must express his sentiments in his conduct, and not in 'thundering utterances'.³⁴ In the *Institutio principis christiani*, Erasmus provides even more detail for the prince. The young prince-to-be is to be taught to love virtue as the 'finest quality of all, the most felicitous', and moral turpitude as the 'foulest'

29 Ep. 337: 94-5: Ibid, 'Introduction', p. 3. Erasmus called the *De Officiis* an 'enchiridion' to be 'learnt by heart', see Todd 1987, p. 27.

30 CWE (66), p. 69, 36.

31 CWE, p. 9.

32 Ibid, p. 41.

33 CWE, pp 86-7.

34 CWE, pp 100, 104.

thing of all.³⁵ He should be taught to always keep the welfare of the community foremost in his mind, and to realize that his prestige will not come from 'fortune's wild display', but through 'wisdom, solidarity and good deeds'.³⁶ He should read and learn not only from the Bible, but from Plutarch, Aristotle, Plato, and Cicero's *De officiis*.³⁷ All of this (and more) is to cultivate in the prince the 'consciousness of right', and to instruct in the art of good government:

Do your private emotions as a man - reproachful anger, love for your wife, hatred of an enemy, shame - urge you to do what is not right and what is not to the welfare of the state? Let the thought of honour win. Let the concern for the state completely cover your personal ambitions. If you cannot defend your realm without violating justice, without wanton loss of human life, without great loss to religion, give up and yield to the importunities of the age! If you cannot look out for the possessions of your subjects without danger to your own life, set the safety of the people before your very life! But while you are conducting yourself in this fashion, which befits a true Christian prince, there will be plenty to call you a dolt...Hold fast to your cause.³⁸

For both the prince and the citizen, to act properly is always to act in all things according to the judgement of reason (the consciousness of right). Virtue was a practice embodied in rational conduct within the context of an ordered life, according to an intrinsically moralized human nature. An agent's act was good when it accorded harmoniously with the immanent principle of this world, and with the moral law as embodied in the *res publica*.³⁹ In a contingent world, the agent had to cultivate a self-sufficient stance in the face of unavoidable disappointments, and follow the dictates of reason, as best he could, without interruption from the impulses of external

35 *The Education of a Christian Prince (Institutio principis christiani)*, translated with an Introduction on Erasmus on Ancient and Medieval Political Thought by Lester K. Born, Columbia University Press, New York, 1936, p. 148 (L566).

36 Ibid, p. 149 (L566).

37 Ibid p. 200 (B455).

38 Ibid p. 155 (B439). Cf. *The three books of Tullius offyce*, R. Whittinton (trans.), London, W. de Worde, 1534 STC 5278, C.5.b, C.8.b, D.2.b, I.6.b.: 'war [will] give place to policy and triumph to eloquence'. Quoted in Paul A. Fideler, 'Poverty, Policy, and Providence', in Paul A. Fideler, T.F. Mayer eds., *Political Thought and The Tudor Commonwealth: Deep Structure, discourse, and disguise*, London, Routledge, 1992. I am indebted to this fresh, perceptive analysis.

39 For an excellent discussion of the inherent tension between the will and virtuous action in the classical and Christian traditions, to which I am greatly indebted, see Ed Hundert, 'Augustine and the Sources of the Divided Self', *Political Theory*, 20, 1, February 1992, pp 86-104, especially pp 88-93.

circumstances. And yet, as Erasmus makes clear, this is never easy, and what Plato taught always holds true, 'that what is beautiful is also difficult'.⁴⁰ Still, each had to try, and for those who could not rise to 'heroic virtue', they could at least have a firm footing in 'civic virtue', rather than plunging 'precipitously into all manner of immorality'.⁴¹

It would only be through a reformation of manners that social reform and the establishment of a godly society could take place; not so much a promotion of virtue as an installation of virtue, so that a 'change of heart' also meant a change of conduct.⁴² It is important to note that this was to occur on as wide a scale as possible, and not only for courtiers and future princes, but the whole body of citizens. This is especially the case in England with humanist writers and officials such as Thomas Starkey in his *A Dialogue between Reginald Pole and Thomas Lupset* (1529-32?), Sir Thomas Elyot's *The Boke Named Governour* (1531),⁴³ and of course Thomas More's *Utopia* (1516), where one of More's central messages was that 'true holiness consists of

40 Augustine is of course completely pessimistic about man achieving such a state without the intervention of god. Reason unaided can never be a liberating self-knowledge since the mind in its turn inwards for the sources of misery only uncovers further impulses it then compulsively seeks to satisfy, the result being '[a]n endless cycle of unfulfilled longing propelled by ungovernable affections'. Hundert, p. 100.

41 CWE, p 46: *Republic* 435C, 497D: CWE, p 105. There is some debate about the extent to which we should attribute English Humanism a specifically 'Erasmian' character, I have for the most part followed Todd on this issue (cf. J.A. Guy, *Tudor England*, Oxford, 1988), but see for dissenting views, Alistair Fox, John Guy ed., *Reassessing the Henrician Age; Humanism, Politics, and Reform 1500-50*, Basil Blackwell, 1986, especially Alistair Fox's 'Facts and Fallacies: Interpreting English Humanism' (Chapter 1); and Geoffrey Elton, 'Humanism in England' in *The Impact of Humanism on Western Europe*, ed. Anthony Goodman, Angus Mackay, Longman, London, 1990.

42 Skinner *FMPT* i, pp. 228-9; Todd 1987, p. 33. See also Martha C. Nussbaum's 'Introduction', *The Poetics of Therapy; Hellenistic Ethics in its Rhetorical and Literary Context*, ed. Martha C. Nussbaum, Academic Printing and Publishing, Alberta, Canada, 1990, for some of the classical sources. Compare with Colin Davis in *CHPT*, 'Utopianism' pp. 333-34, where he argues that these Renaissance discussions always involved a search for an institutional context for virtue.

43 Starkey *A Dialogue between Reginald Pole and Thomas Lupset*, ed. Kathleen M. Burton, London, 1948. [See also the edition edited by T.F. Mayer, Camden Fourth Series, 37, London Royal Historical Society, 1989, who claims that Burton's edition has 'no scholarly value' because it has modernized the spelling.] Elyot, *The Boke Named Governor*, ed. S. E. Lehmberg, London, 1962.

living a life of virtue'.⁴⁴ In all of these writers, as well as in Erasmus, the concept of nobility and its content began to be reconceptualized, whereby the previous simple equation of noble birth equaling virtuous character, was rejected. This was especially true with regard to political leadership, where power should be entrusted not on the basis of 'birth, wealth, or appearance', but rather, to he who 'excels in all the requisite of kingly qualities of wisdom, justice, moderation, foresight, and zeal for the public welfare'.⁴⁵ Though espousing a wide potentiality for virtuous action amongst men, indeed necessarily so if the common good was to prevail, and a general claim of equality ('Nature hath created all men equal' said Erasmus)⁴⁶, this cannot be confused with a commitment to democracy, or even a respect for the common people.⁴⁷ Nevertheless, it was part of a process in the redefinition of hierarchy, whereby virtue alone would constitute the main claim to superior social status, though with the subversive implications left undeveloped until later in the century. Thus, among those humanists who agreed that the best state would be one attained only if we lived as active citizens in a self governing commonwealth, there was a discussion concerning the necessary attributes that citizens would need to possess in order to fulfill their civic duties. The redefinition of *vera*

44 Skinner, *FMPT* i, p. 233; also his 'Sir Thomas More's Utopia and the language of Renaissance Humanism' in Athony Pagden ed., *The Languages of Political Theory in Early Modern Europe*, Cambridge University Press, 1987, 123-157 (especially pp. 135-144). See also Brendan Bradshaw, 'More on Utopia', *The Historical Journal*, XXIV, 1981, pp. 1-27; J.H. Hexter's introduction to More's *Utopia* in *The Complete Works of St. Thomas More*, IV, ed. E. Surtz and J. H. Hexter, London, 1965. More's *Utopia* and Erasmus' *Institutio* were drafted in the same year and More probably saw the *Institutio* in draft. Both emphasize the humanist reformer's concern with bringing reason to bear on the judgement and governing practices of the prince. More's complex and challenging account simultaneously criticized the injustice and wrong-headed statecraft of the day and its withering effects on the human personality, along with providing a sublime picture of possible reformation. See the interesting remarks in Fideler 1992, pp. 196-8.

45 Erasmus, *Institutio*, p. 140.

46 *Institutio*, p. 177.

47 See Skinner *FMPT* i, p. 240, and Todd 1987 p. 187-189 for two rather different approaches to contemporary sixteenth century humanist attitudes towards the 'common sort'. For Erasmus, the 'common sort' had less to do with social class than moral understanding and 'uprightness', yet it was highly doubtful that commoners could ever achieve this, and Erasmus certainly did not support social levelling, which according to him, could only lead to anarchy.

nobilitas - of what conduct was truly worthy of honour and praise - involved a delineation of the precise qualities of citizenship and the nature of civic *officia* necessary for each to serve the common good most effectively. This in turn required a discussion of the means of 'locking' virtue onto the people.⁴⁸

According to most of the Christian humanist theorists, the main way of doing so was through education (just like their quattrocento predecessors). This belief was fueled in part by the belief that to some extent, sin springs from false opinions and bad (or non-existent) training. This was not without problems though, since the effects of original sin were such that no one could be so 'happily born that it cannot be corrupted by wrong training'.⁴⁹ Yet for a prince about to assume control of a state, its 'main hope' lies in the 'proper education of its youth', where they learn the 'teachings of Christ and that good literature which is beneficial to the state'. In so doing, the people come 'of their own free will' to follow the 'course of right', and there can be nothing more important for a prince 'to have the best possible subjects'.⁵⁰ Erasmus even compares the process to pressing wax or modelling clay, and warns parents that 'if you do not mould your child's soul to become fully human, it will of itself degenerate to a monstrous bestiality'.⁵¹ We must distinguish two processes here which though similar are not identical, that is, the education of a prince and the education of his people. The education of a prince was critically important to the commonwealth, and was discussed in a number of specially written educational handbooks, such as Erasmus' *Institutio*. The education of the people was discussed more in the context of the proper regulation of society, the end of virtuous training being a

48 The phrase is Davis's, 'Utopianism', *CHPT*, p. 334.

49 See, for a wider discussion of this tension especially in the context of educational schemes in the sixteenth century, Gerald Strauss, *Luther's House of Learning*, Baltimore, 1978.

50 Erasmus, *Institutio*, p. 143, 212, 213. Also quoted in Todd 1987, pp. 44-45. See also Skinner *FMPT* i, pp. 241-2. In addition to Todd for the question of social order in general in the sixteenth century, see Fritz Caspari, *Humanism and the Social Order in Tudor England*, Chicago, 1954.

51 Quoted in Todd p. 44.

peaceful and harmonious society. There was a strong correlation made by humanists in the sixteenth century between knowledge and social peace, something Cicero had emphasized in the *De officiis*.⁵² Christian humanists of the early sixteenth century expanded their greatest efforts on the reform of education, and providing methodologies and techniques for its improvement as a basis for social regeneration.

Aside from the pedagogical bent which suffuses so much of Erasmus's work (including the 'user friendliness' of the *Adages* and their *Epitomes*), there were discussions of the need for the proper education of citizens in in More's *Utopia*, Starkey's *Dialogue.*, Elyot's *Boke.*, and the very popular works of Juan Luis Vives, who argued that in order for children to become good it was necessary for them to be placed into a well ordered state where virtuous conduct was a matter of instruction.⁵³ In the end, the *litterae humaniores* became a part of the public life of Northern Europe, a tool of public policy.⁵⁴ Since good government depended upon the virtuous conduct of the prince and his citizens, education became a means of governance and an intricate part of the 'police' of the nation. I shall be discussing the concept of 'police' in more detail below.

It is important to keep in mind that this was a moral education, directed towards reforming, improving, and maintaining good conduct, and not just for the purposes of debate. This belief was translated into significant curricular changes in grammar schools and universities, embodying a desire to 'educate for living' and resulting in the elevation of moral philosophy over theology and metaphysics, and rhetoric over logic. The 'art of discourse', in general, was geared more towards practical ends, and the medieval dialectic and rhetorical works were increasingly replaced with the classical works of Cicero and

52 See Paul A. Fideler, 'Christian Humanism and poor law reform in early Tudor England', *Societas*, 4, 1974, 269-86; Fritz Caspari, 'Erasmus on the Social Functions of Humanism', *Journal of the History of Ideas*, 8, 1947, 78-106.

53 *Utopia*, p. 129. Starkey, p. 144 (1948 edition). Elyot (Skinner 1979, p. 242). Vives, quoted in Todd, p. 44.

54 Skinner, FMPT i, p. 242.

Quintillian, as well as later humanist dialecticians who favoured 'persuasive types' of arguments.⁵⁵ This set the ground for what Professor Todd calls the 'textbook revolution' of the sixteenth century, a revival of ancient moralists and the adoption of humanist textbooks. The key classical works used in grammar schools were those which had both a pedagogical and moral bent, such as Quintilian's *Education of the Orator*, Cicero's *De oratore*, *Epistolae*, *De officiis*, *De amicitia*, and *De senectute*, as well as the works of Livy, Seneca, Virgil, Horace, and Ovid. Universities underwent equally rapid change, embracing this new learning, and replacing the 'scholastic approach' to biblical and patristic texts in favour of a humanist biblicism.⁵⁶ Erasmus, in response to scholastic criticism, wrote that '(t)he extraordinary language they are using in Paris causes me no anxiety. You will see a great part of this pedantry sent packing...(Cambridge) has no use for this frigid hairsplitting, which is more conducive to wrangling than religion'. The basic orientation was moral reformation via a humanist education, and the training of laymen for their civic responsibilities.⁵⁷

The important point here is a Ciceronian one: the good man is also a good citizen (and always a Christian). Self-interest and self-indulgence were to be subdued to the interest of living according to the common good, which was the only true means of achieving social peace and harmony. [This is precisely what the rise of the literature and practices of 'reason of state' would deny, as Tuck and Viroli have so ably shown.] The biggest threat to the political community was when citizens, or a prince, ignored the common good and acted only

55 Todd, 1987, p. 47, cf. 77. See also Lisa Jardine, 'The Place of Dialectic Teaching in Sixteenth Century Cambridge', *Studies in the Renaissance*, 21, 1974, 31-62. Paul O. Kristeller, 'The Aristotelian Tradition', *Renaissance Thought*, New York, 1961, 24-47.

56 James McConica has written extensively about this 'revolution'. See his 'The Prosopography of the Tudor University', *Journal of Interdisciplinary History*, 3, 1973, 543-55; 'Humanism and Aristotelianism in Tudor Oxford', *English Historical Review*, 94, 1979, 291-317. Todd, 1987, pp. 47-8.

57 Todd, 1987, p. 50-1. The socially involved nature of English humanism is dealt with in general by Arthur Ferguson, *The Articulate Citizen and the English Renaissance*, Durham North Carolina, 1965. Of course the offspring of the nobility soon filled the universities and the subversive potential of virtue by education was 'neutralized' by the fact that the revival of learning fit neatly into the existing class structure. See Skinner, *FMPT* i, p. 240.

according to their private or factional interests. By making this argument, sixteenth century humanists such as Erasmus, More, Starkey, and Elyot, were providing a potent critique of the political reality of their time, one rife with factionalism and political self interest, memorably evoked, for example, in Erasmus' *In Praise of Folly*.⁵⁸ Though humanists were opposed to the old hierarchy, they were not anti-hierarchical, and certainly not democratic, fearing 'the confusion of anarchy' (exemplified by the German peasant's revolt) as much as any hierarchical conservative. Hierarchy for the Christian Humanists (at least for Erasmus, Elyot, More, and Starkey) was based on behaviour, the display of wisdom and learning, moral excellence, and the actualization of virtue.⁵⁹ Thus, good order was based on degree, but in the sense that each citizen, whatever their station, acted for the common good by fulfilling their office and its attendant duties. This was the calling, the *vocatus*, of the truly pious individual, and it constituted both the 'natural' and divine aspects of the Christian humanist understanding of agency.⁶⁰

There are two more aspects of christian humanist governance which I want to consider before the end of this section. First, the concept of 'police' which is so important to the commonwealth theorists of the first half of the sixteenth century, and subsequently to the political theorists of the seventeenth century. And secondly, in relation to all that has been discussed up until now, the conception of self which is

58 See, for a survey, Skinner, *FMPT* i, pp. 221-224.

59 See Erasmus' 'Adages', *Collected Works of Erasmus* 31, transl. Margaret Mann Phillips, annot. R. A. B. Mynors, University of Toronto Press, 1982, p. 359. See Todd, 1987, p. 188 n.37, 189 for some background to the debate over whether or not Erasmus was offering simply another kind of 'medievalism' with regard to his alternative of the basis social hierarchy. Elyot also expresses a profound fear of disorder by removing all degrees, see his *Governor*, p. 2. Skinner claims that Starkey and Elyot were in keeping with traditional defenders of hierarchy against 'ambitious upstarts'. See *FMPT* i, pp. 239-40. See also Mervyn James, *Society, Politics, and Culture; Studies in early modern England*, Cambridge University Press, 1986, pp.381-84.

60 See Starkey's definition of the the 'true common weal', where 'the parts be knit together in perfect love and unity, everyone doing his office and duty after such manner that whatsoever state, office, or degree any man be of, the duty thereto pertaining with all diligence he busily fulfill, and without envy or malice to other accomplish the same'. *Dialogue*, p. 62, quoted in Skinner, *FMPT* i, p. 240. See also, Todd, 1987, p. 33.

developing alongside the new emphasis on order and 'right' conduct.

We need to distinguish a number of different senses of the term 'police' in order to identify its common usage in the sixteenth century, as compared to the narrow way in which we understand it today.⁶¹ Etymologically, it derives from *politeia* and *politia*, both of which refer to the state and to the administration and preservation of the general order of society. More precisely, it refers to the regulation, discipline, and control of the community through the enforcement of law and the upholding of the structures of public order. The French equivalent from which sixteenth century contemporary usage came, was 'l'art de gouverner la cite', and the Italian, 'montenere l'ordini', with the related sense of sorvegliare and vigilare (to watch over, to superintend). Policy was a matter of governance, where the government (monarch, prince, counsel of wise men etc.) devised actions - policy - to enhance the common good, or brought to bear its learning and expertise on problems of 'gouvernement'. It had other senses too: it was used to describe a type of knowledge (such as 'prudence' or 'counsel'), and was used pejoratively, as in a 'policy' of a deceitful nature which resulted in selfish or ill-gotten gains. In general, though, when Christian humanists talked of a reform in the basic structures of the community with regard to enhancing the common weal, they were referring to 'the police' of the realm, and of 'policy' as a task of government towards that end. This was the art of the republic, the preservation of the union and concord of the commonwealth.. Concomitant with this was the understanding of the community in terms of an organic unity, a body.⁶² The basic idea was expressed paradigmatically by Aristotle, who likened the polis to a

61 The complex history of the concept is evidenced by the fact that it takes up nine single spaced columns in the New Oxford English Dictionary.

62 On the body metaphor in early modern Europe see Perez Zagorin, *Rebels and Rulers, 1500-1660*, i, *Society, States, and Early Modern Revolution: Agrarian and Urban Rebellions*, Cambridge, Cambridge University Press, 1982. A good summary of its use and relation to Christian writers on social reform and welfare is provided by Abel Athouguia Alves, 'The Christian Social Organism and Social Welfare: The Case of Vives, Calvin, and Loyola', *The Sixteenth Century Journal*, xx, 1, 1989, pp.3-21, especially pp. 4-7.

biological organism in which citizens and interest groups worked together for the common good, just as the organs of a body worked together for the common health of the organism.⁶³ Policy ruled the 'body politic', the soul of the civil order, as reason ruled the body, a central metaphor in Starkey's *Dialogue*, for example. For Starkey, policy was ultimately the instrument and civic dimension which transformed the multitude into a Christian polity.⁶⁴ The key to the health of the body was a good diet, i.e. good policies: government and policy should fit the people 'like a garment to the bodie or shoe to the foot'.⁶⁵ Education, combined with legislation designed by wise counsel and the coercive powers of the state, might not make men wholly virtuous, but they could at least be made to *act* virtuously. Starkey thought that even given the tyranny and corruption of officials and lawyers, the law could still be well ordered and efficacious, and move beyond self indulgent manipulation. And here we are at one of the limits of the uneasy alliance, the 'incipient fracture'⁶⁶ in Christian humanism, since plainly, Starkey (and other Christian humanists) did not accept the Augustinian picture of man as wholly fallen and without chance of reform, and yet realized they could perhaps only hope to entice men to act well, if that. This marks a real break with the ideological assumptions of humanism, perhaps epitomised generally in Luther's radical disagreement with Erasmus over the nature of original sin: man's political institutions should be governed as best as they could, but they could do little to bring about social amelioration, let alone perfection. And yet Luther thought proper faith could achieve something, and even drafted poor relief proposals in 1523 for Leisnech, drawing on similar proposals made by Vives and others in Venice, Ypres, and Geneva. But this had little to do with the

63 Aristotle, *Politics*, 1.1-2 (1252a-1253a).

64 Though he changed his mind about this. See T.F. Mayer, *Thomas Starkey and the Commonweal*, Cambridge University Press, 1989, pp. 205-6. The important point here, as Fideler (1992, p. 204; cf. p. 207) argues (taking his cue from Pocock), is the development of a 'polyvalent, humanist and providential, language of reason and policy'.

65 Sir Thomas Smith, *De Republica Anglorum*, 1583; quoted in Fideler 1992, p. 194.

69 The phrase is from Geoffry Elton, 'Humanism in England', 1990, p. 277.

restorative possibilities of good policy or education, and mostly with accepting one's 'calling' (the structure through which God demanded obedience) within existing social institutions, and displaying one's faithfulness and Christian conscience in acting for the sake of God via works of kindly benevolence.⁶⁷

In order to understand the nature of their calling, whether through the practices of education or police, the individual citizen of the mid to late sixteenth century had begun to establish a particular relation to self, at once an intensification of self-perception and a self-identification with the body politic. We need to examine both these aspects. I have discussed the more corporate sense of self understanding in Cicero in chapter 1, and will relate this to the civic humanist sense of self we find in Machiavelli below. Here, I want to emphasize the development of an increased sense of self perception and 'self fashioning' which accompanied the practices of the Christian humanist reformation of manners.⁶⁸ One obvious point to make is that there was a sense of self, of inwardness, available to subjects in the early decades of the sixteenth century.⁶⁹ We need to clarify this point even further. Throughout history people have always had various ideas of self-consciousness, but it is another issue to establish with any

67 Fideler 1992, p. 200.

68 For a general account, see Stephen Greenblatt, *Renaissance Self-Fashioning: From More to Shakespeare*, University of Chicago Press, 1980.

69 There is considerable debate as to whether or not this is so. Francis Barker, in her *The Tremulous Private Body*, New York, 1984, claims that the psychological category of the inward or private did not exist in Renaissance England. Catherine Belsey argues that those who seek a sense of 'interiority' in the characters of Renaissance plays are imposing a modern anachronism; see her *The Subject of Tragedy: Identity and Difference in Renaissance Drama*, New York, 1985. Other critics claim that there is a 'rhetoric' of inwardness in the Renaissance (particularly its English variant) but that this refers ultimately to outward, public factors. Patricia Fumerton argues that Renaissance writers 'can only achieve the inner through the outer, the private through the public, the sincere self through self-display'; "'Secret' Arts: Elizabethan Miniatures and Sonnets", *Representations* 15, 1986, 90. However these critics often combine a philosophical argument about the impossibility of any kind of subjectivity prior to, or exempt from, social determination *tout court*, with historical claims about the English Renaissance in particular, to misleading effect. For an excellent discussion (and more references), see Katherine Eisaman Maus, 'Proof and Consequences: Inwardness and Its Exposure in the English Renaissance', *Representations*, 34, 1991, pp. 29-52. Richard Tuck (Tuck 1993, pp. 38-40) has made clear that by the end of the sixteenth century, and as early as the 1620's, the concept of 'self-interest' was becoming more familiar in political argument.

precision how these differ from our (modern) sense of self, especially when this is conceived as a radically inward looking stance. Recently, Charles Taylor has argued that one distinctive turn our subjectivity took was this profoundly inward turn, not to find 'impersonal lore about human nature' or 'universal nature', but an 'intensely individual' self-exploration, a search for 'our own being'.⁷⁰ Montaigne is the crucial Renaissance figure here, inaugurating (at least according to Taylor) 'the search for self' characteristic of not only the Romantic 'expressivist' movements of later centuries, but our modern age as well. But there is another sense of inwardness which I want to bring out here, which isn't quite the the open ended search for self-knowledge within the limits of 'l'humaine condition', nor yet the already disengaged stance of the late seventeenth century. Instead, it is a turn inward in order to bring oneself into line with a (god given) disposition necessary for social concord, and ultimately, for salvation. Here, inwardness is always a function of a double spectatorship: the human, fallible, self-surveillance on the part of the subjects themselves, and the unlimited omnipotence of the divine observer, who sees all.⁷¹ It was linked to the Erasmian (and later Protestant) view that deliverance from sin lay not simply in the restitution of some objective external relation, but in changing the self. This process, following from the enormous importance Christian humanist reformers placed on education and the inculcation of virtue, fell under the general practice of *disciplina*, which differed from traditional ideas of penance, since it was something one learnt, rather than simply something one did.⁷² However, *disciplina* split into two different

70 Taylor, 1989, p. 181, pp. 177-184. Augustine is the key source of our sense of inwardness according to Taylor, from whom it is transposed and translated into different forms during the Renaissance, early modern, and modern periods (see chapter 7). Taylor may well be right, but I shall not go as far back as he, and shall concentrate mainly on the Renaissance and early modern forms of inwardness. For some reservations about Taylor's interpretation of Augustine, see Hundert, 1992.

71 See Katherine Eisaman Maus, 1991, pp. 37-8 for this 'double spectatorship' in the context of Renaissance criminal trials.

72 Bossy, 1985, pp. 126-7.

forms corresponding to the two forms of christianity now in play, the Protestant reformers and counter-reformation Catholicism. It was the latter for whom the emphasis was strongest to shift away from the field of objective social relations, and into the discipline of the interiorized individual *via* the practice of confession.⁷³ This was part of the general transition between medieval christianity and early modern Catholicism, whereby the communitarian and collective aspects of the church and its rituals were increasingly displaced by individualized, or at least, privatized acts. Instead of the bearing of the sacrament being collective, i.e. forgiveness concluded between man and god through the the mediation of the church, it became individualized, a reconciliation of the sinner to God, and only then to the community. This concern with man's interiority transformed penance into an incentive for the systematic inner monitoring by the individual of his or her own life, the penances themselves became 'medicinal' and reformatory, instead of vindictive or 'satisfactory'. The burden was upon the individual Christian conscience, who along with his confessor, identified and corrected a whole range of transgressions of thought, word, and deed; nothing being too small or too insignificant to merit attention.⁷⁴ That the confession was to become an instrument for intimate self-examination, for instruction in the proper modes of christian conduct, is perhaps best exemplified by its new 'technology' - the confessional. Developed in the late 1560's by Charles Borromeo, archbishop of Milan, it set out how the priest and penitent would sit,

73 For a general discussion of *disciplina* and the transition between medieval christianity and the Reformation see John Bossy, 1985, pp. 126-140. On confession see the classic study by Charles Lea, *A History of Auricular Confession and Indulgences in the Latin Church*, 3 Vols., Philadelphia and London, 1896; John Bossy, 'The Counter-Reformation and the People of Catholic Europe', *Past and Present*, 47, 1970, pp. 51-70; 'The Social History of Confession in the Age of Reformation', *Transactions of the Royal Historical Society*, Fifth Series, 25, London, 1974, pp. 21-38; Keith Thomas, *Religion and the Decline of Magic*, London, 1971, pp. 154-59; Thomas N. Tentler, *Sin and Confession on the Eve of the Reformation*, Princeton University Press, 1977; Michel Foucault, *The History of Sexuality: Volume One, An Introduction*, transl. Robert Hurley, Penguin, London, 1978; Lawrence G. Duggan, 'Fear and Confession on the Eve of the Reformation', *Archiv für Reformationsgeschichte*, 75, 1984, pp. 153-75.

74 Bossy 1974, p. 28. See the extracts from a confessional manual in Foucault 1978, p. 20. Tentler 1977, pp. 134-62.

secluded and apart, separated by a grille, the 'visible embodiment (of) the jurisdictional theory of the sacrament which had prevailed'.⁷⁵ For Michel Foucault, it was here that the injunction to 'examine yourself' was laid down for the first time in the form of a general constraint, which has since become one of the main rituals upon which we rely for the 'production' of truth:

The confession has spread its effects far and wide. It plays a part in justice, medicine, education, family relationships, and love relations, in the most ordinary affairs of everyday life, and in the most solemn rites; one confesses one's crimes, one's sins, one's thoughts and desires, one's illnesses and troubles; one goes about telling, with the greatest precision, whatever is most difficult to tell. One confesses in public and in private, to one's parents, one's educators, one's doctor, to those one loves; one admits to oneself, in pleasure and in pain, things it would be impossible to tell to anyone else, the things people write books about. One confesses - or is forced to confess.⁷⁶

I shall discuss the philosophical and political implications of this for Foucault in another chapter, but here I want to point out the relation to self the confession and its practices began to establish in the course of the sixteenth century, a form of self-exploration linked directly to a system of governance, which would be enormously influential throughout the early modern period.

The other form of *disciplina*, as I mentioned above, worked itself out in a different way, and with a different relation to self, though sharing with counter-Reformation practices an intensity of concern with the self. The Protestant reformers, though equally concerned to locate the source of sin in the mind, and hence the need for there to be considerable self-reformation, also sought to supplant the role of penance with extensive practices of exterior discipline. The protestant believer was, as we have seen, a 'citizen by calling', and the upholding of proper conduct was intimately related to the good of the

75 Lea, i, pp. 54, 393 ff. Bossy, 1974, p. 29. Of course all Borromeo did was issue a set of instructions and specifications, which were not universally or quickly taken up. Bossy remarks that the diffusion of the confessional was a 'fairly slow process' and seems to have spread 'more rapidly in regions which had a tradition of Roman law than in those which did not' - northern Europe was especially slow on the take-up compared to the south. See also Bossy and Foucault's discussion of the links between the emergence of the confessional and the practice of confession in general, and a discourse on sexuality. Bossy, 1974, pp. 32-38, and 1985, pp.134-5. Foucault, 1978, especially pp. 19-21, 58-67.

76 Foucault, 1978, pp. 58-9.

community. Thus, it was the public failings of the subject which would receive the most attention and scrutiny, joined to a close examination of conscience. The most obvious examples are Martin Bucer's *De regno Christi*, and of course, Jean Calvin's *Institutio Christianae Religionis* (1536), as well as the *Ecclesiastical Ordinances* (1541), his blueprint for the reformation of Geneva.⁷⁷ Bucer, as John Bossy has remarked, 'united the ethics of holiness drawn from the Ten Commandments and the headmasterly approach to the Christian community derived from the humanists', and saw Sparta as the appropriate civil polity for Christians to imitate, at least in spirit. But it is Calvin who provides the greatest example of protestant exterior discipline, and Calvinism would play an absolutely central role in the political argument of the early seventeenth century. If the confessional was the key piece of Catholic 'technology' associated with the reform of the relation to self, then the consistory was the equivalent piece for Calvinism.⁷⁸ This was Calvin's innovation for controlling conduct, in addition to his four-fold distinction of the offices of pastor, doctor, elder, and deacon, all of whom played a part in the education, care, and surveillance of the population of Geneva. The consistory was designed to meet weekly, and to act as an ecclesiastical tribunal of individual conduct. Usually chaired by a pastor, it was made up of a number of elders, each of whom had responsibility for a district within the city, and each of whom gave a weekly report on any misconduct which had

77 *De Regno Christi* (2 Vols.), ed. F. Wendel, Paris/Gutersloh, 1954-5; transl. Wilhelm Pauck, Paul Larkin, in *Library of Christian Classics*, Vol. 19, *Melanchton and Bucer*, Philadelphia, 1969. *Institutio Christianae Religionis*, in *Opera Omnia* Vol. 2, pp. 1-1118, ed. Wilhelm Baum et al., 59 volumes, Brunswick, 1863-1900; *Institutes of the Christian Religion*, trans. Ford L. Battles, ed. John T. McNeil, 2 vols, London, 1960 (also in *Library of Christian Classics*, vols. 20-1).

78 On the consistory system see Robert M. Kingdon, 'The Control of Morals in Calvin's Geneva', *The Social History of the Reformation*, ed. L. P. Buck and J.W. Zophy, Ohio State University Press, 1972, 3-16; 'Calvin and the Family: The Work of the Consistory in Geneva', *Pacific Theological Review*, 17, 1984, 5-18. E. William Monter, 'The Consistory of Geneva 1559-1569', *Bibliothèque d'Humanisme et Renaissance*, 38, 1976, 467-84. I am greatly indebted to the work of Raymond A. Mentzer Jr., who provides a fascinating account of a working consistory reconstructed from its records in his 'Disciplina nervus ecclesiae: The Calvinist Reform of Morals at Nîmes', *The Sixteenth Century Journal*, xviii, 1, Spring 1987, 89-115.

occurred. If there had been cases of misconduct, the body as a whole would then decide the appropriate course of action, which might involve summoning the transgressor, calling witnesses, or setting up an investigative committee. As a public body, it was ultimately concerned to uphold standards of conduct conducive to the good of the community: it was the duty of each citizen to act in such a way that it contributed to the 'concord' of the city, which was to live according to God's ends and to his glory. The idea of 'concord' here is more civically rooted than that of Luther's, whose dour view of the potential of human institutions left any possibility of social dynamism largely undeveloped. Calvin's was partly the civic understanding of *vocatus* which Protestants inherited from Christian humanism and classical political thought, though, of course, he too was less willing to credit human and princely wisdom, than the monarch's role as a conduit through which the providential intentions of the realm were made evident.⁷⁹ It also had to do with how Calvin reconstituted the meaning of the 'body politic'. Calvin invoked the familiar metaphor of organic unity, yet in his own distinct way. The Christian had to reflect his inner will regenerated by the grace of God through observable outward action, and as God cared for the individual, the body politic had to care for the souls and bodies of its subjects.⁸⁰ Thus, civil government and ecclesiastical government differed not in kind, but merely in objectives. Man was a creature of these two orders, containing, as it were, 'two worlds, capable of being governed by various rulers and various laws'.⁸¹ Spiritual government was the means by which the conscience was 'formed to piety' and to the service of god, whereas the civil government instructed in the duties of humanity and civility. The former was concerned with the cure of souls and the 'perfect virtue' of Christianity, whilst the latter was

79 Fideler 1992, p. 209.

80 Alves, 1989, p. 7.

81 *Inst.* III, xix, 15. There is a good discussion of the implications of this passage in Sheldon Wolin, *Politics and Vision: Continuity and Innovation in Western Political Thought*, London, 1960, p.173, and pp. 169-185 in general.

concerned with the habits of civility and order, the lesser civic virtue. It is important to note that for Calvin the two forms of governance are analogous: the polity itself had an essential value not subsumable to the necessarily Christian foundation of a well constituted civil society.⁸² The key role of the magistrate was to preserve the basic order of society, which was an institutional commitment rather than a personal one (the church cured souls). This involved enforcing justice and righteousness, promoting peace and godliness, and generally preserving a 'temperate liberty'.⁸³

It must be remembered though, that the church was the model for all human social interaction, and thus in the *Ordinances*, Calvin sanctified Genevan lay institutions in order for the church ministerial elite and the state administrative elite to work together in the regulation of conduct and the creation of a godly society.⁸⁴ He used 'church' in relation to a specific institutional setting, and in the communitarian sense as well. The body politic of Rome was replaced by the (mystical) body of Christ, and his spiritual values (not mere selfish drives) were to organize Christian social interaction, and society was to be a 'sacred totality'.⁸⁵ The Christian (reconstituted via the grace of god by faith alone) thus dedicated his body and soul to God following Christ's example, replacing self love with self denial, and demonstrating his faith by doing good works for others. Calvin's 'reborn' christian self would always interact with other members of the community, and submit himself (or herself) to the common good, and to the greater glory of God. In Calvin, there was a necessary unity between inner being and external appearances. The emphasis was always upon a community supervision of Christian discipline upholding a common morality, and less on the austere individual

82 See *Inst.* II, ii, 13-15. Wolin, p. 184-5.

83 See Calvin's *Commentaries on the Epistle of Paul the Apostle to the Romans*, in Wolin, pp. 186-7.

84 Robert M. Kingdon, 'Social Welfare in Calvin's Geneva', *The American Historical Review*, 76, February 1971, 50-69. Alves, 1989, pp. 9-10, 18-19.

85 Alves, 1989, pp. 9-10, 18. For a different view see Elsie Anne McKee, *John Calvin on the Diaconate and Liturgical Almsgiving*, Droz, Geneva, 1984, especially p. 20.

pursuit of self-clarification and salvation, alone in the confessional.⁸⁶

And yet both approaches took part in the transition from penance to *disciplina*, and both saw discipline as an essentially interior process. I do not want to overemphasize similarities here, the differences were, of course, great, with the Council of Trent generally repudiating Erasmian humanism in all its forms.⁸⁷ Yet both involved a relation to self which was intimately related to a kind of governance and a perception of social order, and both took a decisive turn inwards as a means of self understanding. Both modes involved a set of constraints on the self, in one case a confessional self conforming to authorized ritual and doctrine, and in the other, a pious, disciplined self, exhorted to conduct himself or herself for the benefit of the common good. Scholars still dispute whether it is the ideological framework established by (say) Calvin and Bucer which is more important here than that of Erasmus, More, or Vives, or whether that by the 1570's the 'ministry-magistracy' of the Puritan strongholds had taken over initiatives in 'social policy' (especially with regard to poor relief) from the Christian-Humanist-inspired national government plans of the 1530's. Whatever the case, it is partially against this background that we need to understand seventeenth century discussions of the 'self' and 'conscience', especially when we turn to the Puritan attempts at the reformation of conduct, and a consideration of the foundations of liberal conduct in the work of John Locke.

86 But see Bossy, 1985, pp.132-133.

87 Todd, 1987, pp. 208-211. But see the discussion of Catholic responses to the 'new humanism' of the late sixteenth century (especially by the Jesuits) in Tuck 1993, pp. 131-146.

Chapter 3: Machiavelli and Liberty

3.0 Introduction

The Christian humanist writers discussed up until now were all still working within the symbolic discourse of understanding 'community' in terms of some kind of organic unity or body. It strikes us that this is definitive of much of pre-modern and late-Renaissance political theory, even given the slow emergence of self-interest as a relevant theoretical reference point, and the gradual de-personification of the state, throughout the sixteenth century. If politics *was* an art of unification¹, then today, it resembles more an art of separation and accomodation, the management of a bewildering degree of particular actions and desires arranged as a space in which atoms 'hurtle across a flat social plane' rather than within the taxonomy of a body.²

However, the deconstruction of the metaphor of society as a body or organic unity did not occur overnight, nor was it ever completely eradicated. As people struggled to understand their world, they struggled to redescribe, in new ways, phenomena they only partially understood, and found old explanations wanting, and old practices ineffective; their conceptual tools were no longer adequate to the new circumstances.³ The changes affected the foundations of much of how we still speak and think about politics, though perhaps not fully so until the mature work of seventeenth century theorists, such as Grotius, Hobbes, and Locke (aspects of which I shall be taking up

1 Michael Walzer, 'On the Role of Symbolism in Political Thought', *Political Science Quarterly*, LXXXI, 2, June 1967, pp. 191-204. Reprinted in Tracy Strong ed., *The Self and the Political Order*, Basil Blackwell, Oxford, 1992, pp. 64-76.

2 Walzer, 1992 (quoting Wolin), p. 74. On contemporary politics as an art of separation see Walzer, 'Liberalism and the Art of Separation', *Political Theory*, 12, 3, August 1984, 315-330.

3 Charles Taylor puts it well I think, when he writes (*Sources of the Self, The Making of the Modern Identity*, Cambridge University Press, 1989, pp.206-7) that change in the history of ideas and practices is never uni-directional, rather it occurs 'through mutations and developments in the ideas, including new visions and insights, bringing about alterations, ruptures, reforms, revolutions in practices; and also through drift, change, constrictions or flourishings of practices, bringing about the alteration, flourishing, or decline of ideas...The real skein of events is interwoven with threads running in both directions'. (Cf. Walzer, 1992, pp. 74-5) In the book itself however, Taylor takes a singular path away from a consideration of practical change; his web is woven almost entirely of idealistic threads.

below). And yet it is important to see their relation to these changing vocabularies and practices in terms of a dialogue. For they too had traditions with which to reconcile themselves.

With regard to our examination of the concept of liberty, a crucial figure along the way (to put it breezily) is Machiavelli. He is important here for a number of reasons. Firstly, he seems to inhabit at one and the same time the ancient and modern worlds of political theory, and this perhaps explains why so many theorists and interpreters are unable to agree on the general character of his 'modernity'.⁴ Machiavelli had a very acute sense of the modern and the ancient himself; the former referred to contemporary events understood or explained in relation to christian culture and the latter to pre-christian and classical times. We need to examine his use and understanding of various ancient and classical sources, and generally, his overall 'world picture'. This will provide the background from which we can then investigate his understanding of the concept of liberta, the site of so much recent attention and debate, and its relation to his understanding of the moral personality, what we might call the 'Machiavellian self'.

3.1 A Machiavellian world picture

For many historians of political thought, and especially purveyors of civic humanist political values, Machiavelli provides the preeminent

4 The literature on this is huge, but see especially Quentin Skinner, *The Foundations of Modern Political Thought: Volume I, The Renaissance*, Cambridge University Press, pp. 113-86; Machiavelli, Oxford University Press, 1981; Isaiah Berlin, 'The Originality of Machiavelli', *Against the Current*, Viking Press, New York, 1980, pp. 25-79; Leo Strauss, *History of Political Philosophy*, University of Chicago Press, Chicago, 1987, pp. 296-318; Donald McIntosh, 'The Modernity of Machiavelli', *Political Theory*, 12, May 1984, 184-203; Terence Ball, 'The Picaresque Prince: Reflections on Machiavelli and Moral Change', *Political Theory*, 12, November 1984, 521-36; Larry Perman, 'Gravity and Piety: Machiavelli's Modern Turn', *Review of Politics*, 52, Spring 1990, 189-214; A.J. Parel, 'The Question of Machiavelli's Modernity', *Review of Politics*, 53, Spring 1991, 320-39. Cary J. Nederman, 'The Machiavellian Mirror: The Psychology of Virtù in Light of its Medieval Background', Paper presented at the New York State Political Science Association, New York, April 1992 (On file with the author). Peter S. Donaldson, *Machiavelli and the Mystery of State*, Cambridge University Press, 1988. Maurizio Viroli, *From Politics to Reason of State: The acquisition and transformation of the language of politics 1250-1600*, Cambridge University Press, 1992, pp. 126-177.

discussion of the Republican thesis most relevant to our contemporary world, and thus is most in need of excavation and restoration. There are two claims being made here. The first is a particular interpretation of the substance and context of Machiavelli's republican arguments. The second refers back to the archaeological metaphors of the previous sentence; that is, a particular historical narrative constituting a substantive intervention within a contemporary debate or discourse, beyond the obvious (though no doubt valuable) 'sense of history'. This brings us back to the introduction to part 1 where we considered the relation between historically distinct concepts and what is meant when we describe something as a 'resource' in need of recuperation or restoration. Our consideration of the concepts of liberty and self in Renaissance political theory up to now, as well as in Machiavelli, should provide us with a case study of this claim. I shall return to this below, in the concluding paragraphs to this chapter.

As we shall see, Machiavelli was no doubt an 'innovator' in political theory, but he did so in the context of the Renaissance humanism I have been describing above. This involved a close reading and understanding of the key classical texts which exercised so much influence in *quattrocento* Florence (and elsewhere), namely, the Roman moralists and historians - Cicero, Seneca, Livy, Sallust, Tacitus, and Polybius. If we take two of Machiavelli's most famous texts - *The Prince* and *The Discourses*⁵ - we find examples of both an acceptance and critique of contemporary and classical arguments. As we know, this means that Machiavelli worked within both the dominant languages of politics of the early sixteenth century - the classical 'civil philosophy' of the *vivero politico* inspired by Greek and Roman civic humanism, along with the emerging discourse of *ragiondi stato* (or

5 *The Prince*, edited by Quentin Skinner and Russell Price, Cambridge University Press, Cambridge, 1988; *Discourses on the First Decade of Titus Livius*, in *Machiavelli; The Chief Works and Others*, translated by Allan Gilbert, I, Duke University Press, North Carolina, 1965, pp. 175-529. Cf. this with the Penguin translation by Leslie J. Walker *The Discourses*, ed. Bernard Crick, transl. Leslie J. Walker, rev. Brian Richardson, Penguin Books, Harmondsworth, 1983). I have used the Gilbert translation.

arte dello stato). In *The Prince* for example, Machiavelli agrees with his contemporaries and their classical mentors that in order to maintain his power and preserve a government which benefits the whole body of subjects and brings glory and honour to himself, the prince must cultivate *virtu* in order to control (though never wholly) the fierce instability of *fortuna*. Now these two factors - *virtus* and *fortuna* - were staple topics for Cicero, who in the *De officiis* argued that the greatest gift of fortune was glory, and that only virtuous action could bring true honour and be representative of the 'real' man.⁶ Livy's histories, the first ten books of which Machiavelli would discuss in his *Discorsi*, were seen as examples of Roman successes explained in terms of fortune 'smiling upon' demonstrated *virtus*. And perhaps most important of all, Machiavelli (in the *Discourses* and texts other than *The Prince*)⁷, like other republican humanists of the sixteenth century, accepted the fundamentally Ciceronian and Aristotelian point that the good of the community could only be served by the active participation of all of its citizens in the conduct of its affairs, whether in the shape of collective deliberation, or simply fulfilling the duties of one's proper office or station. This was the celebration of the political man, the *politicus vir* who helped establish and then maintain the *civitas*.⁸ In Machiavelli the relationship and interest in the past was not purely antiquarian; the ancient texts were perceived and interpreted as providing a *positive* bequest for an analysis of contemporary political life beyond merely providing an ethical

6 Cf. Skinner, 1981, pp.26-7, and 'Political Philosophy', in Schmitt et al eds., *The Cambridge History of Renaissance Philosophy*, Cambridge University Press, 1988, pp. 430-33.

7 *Arte della guerra e scritti politici minori* [*The Art of War*, translated Gilbert 1989, Vol. II pp. 566-726]; *Istorie Fiorentine* [*Florentine Histories*, Ibid, Vol. III pp. 1029-1435]; *Discursus florentinarum rerum* [*A Discourse on Remodelling the Government of Florence*, Ibid, Vol I].

8 See generally, Hans Baron, 'Machiavelli: the republican citizen and the author of *The Prince*', in *In Search of Florentine Civic Humanism*, Princeton University Press, 1988 (2 vols.), I pp. 111-3. Cf. Nicolai Rubinstein, 'The History of the word *politicus* in Early-Modern Europe', in Anthony Pagden ed., *The Languages of Political Theory in Early-Modern Europe*, Cambridge University Press, 1987, pp. 41-56 (especially at pp. 52-3); and Viroli 1992, pp. 130-1.

terminology. This was especially true for Machiavelli in relation to Cicero, one which is crucial to understand in order to see what Machiavelli was doing when he turned to analysing concepts such as *liberta*, and discussing the nature of *virtu* and the moral personality of the ruler and the people.⁹

One more aspect of Machiavelli's conceptual background needs to be brought out before moving on to a direct consideration of these issues. This is, his understanding of the nature of reality, or his 'world picture'. Much rides on this question since the arguments of theorists such as Professor Skinner are often dismissed on the basis of the incommensurability, or irrelevance, of Machiavelli's world picture and ours - 'we live in a different world than Machiavelli' comes the reply, 'his tools can't be of any use because the nature of our task has changed'. Historical explanation becomes a process of listing how we no longer are in comparison to the ancient, medieval or 'early modern' worlds. For Skinner and others, it is precisely what emerges

9 There is overwhelming evidence of Machiavelli's familiarity with the classical heritage of civic humanism. See especially his letter to Francesco Vettori, 10 December, 1513, reprinted in Skinner and Price 1988, pp. 93-95. Cf. Viroli 1992. On Machiavelli's own education, see Felix Gilbert, *Machiavelli and Guicciardini: Politics and History in Sixteenth Century Florence*, Princeton, Princeton University Press, 1965, pp. 318-22; Roberto Ridolfi, *Life of Niccolo Machiavelli*, transl. Cecil Grayson, Chicago University Press, 1963, chapter 1; Sebastian DeGrazia, *Machiavelli in Hell*, Harvester Wheatsheaf, Great Britain, 1989, pp. 5-30. An analysis of the relation between Machiavelli's political theory and classical political theory, especially those of Cicero, Seneca, Tacitus, Livy and Polybius, has become a staple topic for scholarly concern. Some of the best and most relevant accounts include Allen Gilbert, *Machiavelli's Prince and Its Forerunners: The Prince as a Typical Book De Regimine Principum*, Durham, 1938; J.G.A. Pocock, *The Machiavellian Moment*, 1975, pp. 49-218; Kenneth Charles Schellhase, 'Tacitus in the Political Thought of Machiavelli', *Il Pensiero Politico*, 4, 1971, 381-91; J.H. Whitfield, 'Machiavelli's Use of Livy', in Livy, ed. T.A. Dorey, London, 1971; Neal Wood, 'Some Common Aspects of the Thought of Seneca and Machiavelli', *Renaissance Quarterly*, 21, 1968, 11-23; Benedetto Fontana, 'Tacitus and Machiavelli on the Art of Ruling', Paper Presented at the 46th Annual Meeting of the New York State Political Science Association, April 1992 (on file with the author). On the crucial relationship between Cicero's *De officiis* and Machiavelli, see the seminal article by Marcia L. Colish, 'Cicero's *De officiis* and Machiavelli's Prince', *Sixteenth Century Journal*, IX, 4, 1978. The contextual and analytical relationship between *De officiis* and Machiavelli's *Prince* and *Discourses* has been a major feature of Quentin Skinner's interpretation of Machiavelli, see especially Skinner 1981, pp. 24-47; 1984, pp. 204-217; 1988 pp. ix-xxiv; and in *CHRP* pp. 430-441. Also, to a lesser extent, J.H. Whitfield, *Machiavelli*, Oxford University Press, 1947, pp. 99-103; Berlin, 1979; Felix Gilbert, 'The Humanist Concept of the Prince and the Prince of Machiavelli', *Journal of Modern History*, 11, 1939, pp. 449-83; Gioacchino Paperelli, 'Virtu e fortuna nel medioevo, nel rinascimento e in Machiavelli', *Cultura e scuola*, 9, 1970, pp. 76-89.

in relief to the modern world when we compare concepts and languages across time which is of most value, a comparative perspective which enables us to stand back from our entrenched practices and to think again. But if we (in turn) stand back from both of these claims we recognize something they share, that is, this activity of 'world picturing'. Neither denies the reflective value of the activity as such; the former only so he can reject the world picture so understood as 'irrelevant', the latter so he can gain critical purchase on the present through understanding the way the past constitutes our current practices. Both also presume that what lies at the centre of world picturing is a subject free to do so. Heidegger asked some important questions about these assumptions; 'Does every period of history have its world picture, and indeed in such a way as to concern itself from time to time about that world picture? Or is this...only a modern kind of representing, this asking concerning a world picture?'.¹⁰ Interpreters of Machiavelli seem to be split on this question. For some, he is a harbinger of the modern subject's sense of this activity, of asking about world pictures in such a way that 'whatever comes into being in and through representedness transforms the age in which this occurs into a new age in contrast with the preceding one'.¹¹ Here, a particular form of representation secures the 'newness' of the age. For others Machiavelli's 'modernity', such as it is, is overstated, especially with regard to his basic world picture, which they see as still embedded substantially (though not wholly) in distinctly pre-modern forms of representation. In other words, that Machiavelli does not call it into question and does not engage in, the 'activity of world picturing', or that if he does, he does so only in very selective and limited ways. Both these positions have implications for an understanding of Machiavelli's concepts of liberty and self, and ultimately for claims made about the nature of Machiavellian political theory - and classical

¹⁰ Martin Heidegger, 'The Age of the World Picture', in *The Questions Concerning Technology and Other Essays*, trans. William Lovitt, Harper and Row, New York, 1977, p. 129.

¹¹ Ibid, p. 130.

republicanism in general - as resources for our contemporary predicament.

Let us sketch the negative claim about Machiavelli's 'world picturing' first. The essence here is that a pre-modern cosmology and anthropology underlies his political theory, invalidating the claim that his 'newness' amounts to a kind of modernity.¹² This cosmology consists of a distinction between heaven and earth, whereby all motions in the sublunar world, natural and human, depend on motions emanating from heaven, the planets, and the stars. Thus, the sky Machiavelli paints is 'thick with aerialists'.¹³ History is in part a function of the natural motion of celestial bodies, and in part a function of human causation. The movement of history is not wholly the outcome of autonomous human action, but instead dependent upon certain cosmic motions. The order of human history - its rise, fall, corruption and renewal - and the power of this order are received from the heavens and the planets. This is as true for individuals as it is for countries, and the former needs the opportunity to act that only heaven can give. Though not espousing a hard fatalism, since humans are basically co-causes of all human achievements, Machiavelli still insists they need the *occasione* to succeed, and this is provided by heaven and fortune. Moreover, individuals have a given 'temperament' and 'humour' (*umori*), which are the basic elements of our particular human nature (*natura*). Following from this, humans conduct themselves according to imagination (*fantasia*) and not prudence, since the humours, appetites, and temperaments of individuals are not easily subordinate to reason; 'you always act as

12 This argument has been put forward recently by Anthony J. Parel, *The Machiavellian Cosmos*, Yale University Press, 1992; and 'The Question of Machiavelli's Modernity', *The Review of Politics*, 53, 2, Spring, 1991, 320-339. See also Sebastian De Grazia's wonderfully readable *Machiavelli in Hell*, London, Harvester Wheatsheaf, 1989, pp. 58-70 (especially at 65-70); and Cary J. Nederman, 'The Machiavellian Mirror: The Psychology of Virtù in Light of its Medieval Background', presented to the New York State Political Science Association, April 1992 (on file with the author).

13 De Grazia 1989, p. 68.

Nature inclines you'.¹⁴ *Umori* has a number of other uses for Machiavelli. It is used to refer to the 'body politic' itself, its well-being as is its health, the prince as its doctor, and political science as its 'medical science'.¹⁵ It also designates the social groups of the *res publica* - the two 'humours' of *grandi* and *popolo*, as well as their interaction.¹⁶ It is used in relation to Machiavelli's concept of good and bad, the healthy or malignant humours which contribute either to the health or the sickness of society. And finally, *umori* is used to classify political regimes, which for Parel at least, is the most important (and original). This is because Machiavelli seems to have introduced a new criterion for classifying regimes, henceforth defined according to the way they satisfy the humours of their constitutive groups. Principalities satisfy their humours through the intervention of the prince and not via self-government, since their social groups are too

- 14 *Discourses*, III.9, p. 452 Machiavelli gives a series of examples of men who acted the way they did not because of choice but 'through nature'. See also the important Letter to Giovan Battista Soderini, 15 September, 1506, in Skinner, Price, 1988, pp 95-99: 'I believe that just as nature makes men with different faces, it also produces different kinds of mind and temperament. Consequently, every man acts in accordance with the bent of his mind and temperament. Thus, since the times and conditions vary, some men achieve their aims completely, if their ways of acting are appropriate for the times. On the other hand, a man whose ways of acting are ill-suited to the times and circumstances will be unsuccessful.' There is a parallel passage in *The Prince*, 25, p. 86. See De Grazia 1989, pp. 74-6. Parel 1991, pp.336-8; 1992, pp.80-2.
- 15 *Prince*, II, pp.7, 11; and 26, p.88-; *Discourses*, III. 27, p.478. De Grazia (1989, p. 182) notes how the 'humours' refer back to the old medical theory of humidity and bodily fluid (blood, phlegm, yellow and black bile). Cf. Parel, 1992, pp.104.
- 16 *Discourses*, I, 4, p. 203; I, 5, 204-206 as well as in the *Prince*, 9, 34-37. Machiavelli also talks about the *three* types of humours in Florence ('tre diverse qualita di uomini') in his *Discursus florentinarum rerum* (1520), though based the two general types mentioned above. 'Humours' is rendered in a number of ways by translators, including 'factions' (Gilbert) and 'dispositions' (Walker) See Parel, 1992 pp. 105-6, and De Grazia 1989 p. 182, for other uses as well. Note that *popolo* here does not imply a designation for 'the rest of the', but a very specific group other than the *grandi*, usually around 3000 people. As Richard Trexler points out (*Public Life in Renaissance Florence*, New York, Academic Press, 1980, p. 15-6), the highly stratified Florentine society was split into three essential components; the Guilds (both upper and lower), the confraternities (taxpaying non-guildsmen, usually led by a member of the upper guilds), and rest of the vast majority - the adult salaried workers, adolescent youths, and women, who were all mainly excluded from both occupational groups and religious groups. Though Parel does not mention it, Machiavelli is obviously influenced by Aristotle here, who in the *Politics* described two constitutive elements to every city, one being numerically small (the 'well-to-do') the other quite large (the poor). See *The Politics*, trans. T. A. Sinclair, revised Trevor J. Saunders, Penguin, 1986, IV, iv, 1291a33 and I, ii, 1252b15. Machiavelli for the most part though, drops the economic characteristics employed by Aristotle.

antagonistic to cooperate. In republics, social groups are able to resolve their differences through the constitution and law, and be self-governing; the equality and freedom of the humours is ensured by the sharing of power. By encouraging the flourishing of citizens of different temperaments and humours, republics are best able to deal with what fortune might throw at them, they embody that cherished Machiavellian trait - flexibility. A diseased Republic would be one where the controlled management of differences broke down into bitter factional conflict, as happened, for example, in the Roman republic. *Licenzia* (anarchy) was the worst state of affairs, since it had neither the order of a principality, nor the self-government of a republic, but simply the one-sided dominance of one faction over another, with only the most powerful group able to satisfy its own interests to the detriment of everyone else.¹⁷ This was not to say, as we shall see, that the Roman Republic did not offer a salutary lesson in preferring larger Republics and their social 'commotion' to the quiet stagnancy of a small, unperturbed city-republic.

What are the implications of this reading of Machiavelli's world picture, and the role of the humours for his key concepts of *fortuna* and *virtu*, and ultimately, his understanding of liberty, self, and citizenship?

Machiavelli uses fortune in a number of different ways throughout his work. It is used to denote a kind of causal agent superior to humans, as referring to fortuitous events affecting the outcome of human actions, or as referring to a favourable or unfavourable condition of life or relationship with others. According to the first sense, the fortuitous was explained in terms of some ultimate cause, whether it be the heavenly bodies, or as in the case of christians, that divine reason (providence) disposes all things in their proper place

¹⁷ *Prince*, 9, pp. 34-37; *Discourses*, III, 9, pp.452-3: 'a republic, being able to adapt herself, by means of the diversity among her body of citizens to a diversity of temporal conditions better than a prince can, is of greater duration than a principedom and has good fortune longer'. See Parel, 1992, pp. 107-8.

and time. Though Machiavelli acknowledged these two explanations,¹⁸ he was inclined to reject the latter since the Machiavellian universe was not governed by providence but by natural motion and its inherent 'occult' qualities. Within this order, fortune was supreme, 'the mistress of human destiny...(a) destiny subject to chance, not to reason'.¹⁹ Of course Machiavelli presents yet another image of fortune, this one shorn of theological imagery, his famous claim that 'fortune is a woman' tamed only if 'you treat her roughly'.²⁰ He presents this in a way to suggest that not everything is determined by fate, and that humans can struggle in political life to escape, as best they can, the unforeseen. Success can only be won by the exercise of *virtu* to its maximum degree, and even then, the nature of fortune as Machiavelli understands it defines the limits of *virtu*. It determines one's birth and death, one's humour and temperament, and the quality of the 'times' within which one lives.²¹ As well, fortune treats individuals and countries differently, and generates a different set of requirements for each to contend with. Chapter 25 of *The Prince* provides the dichotomy between 'universal and particular' fortune.²² The metaphor he uses to associate fortune with countries is an 'enraged river' flooding plains and causing destruction, and which 'everyone flees...everyone gives way to its thrust'. However, says Machiavelli, if we accept that adversity will affect our country from time to time we can, with foresight, minimize the most adverse effects - 'that when the river is not in flood, men are (able) to take

18 *Prince*, 25 pp. 84-87: 'I am not unaware that many have thought, and many still think, that the affairs of the world are so ruled by fortune and by God...'. But see p. 84 n. c for doubts concerning this passage.

19 Men cannot 'command their nature' (Letter to Giovan Battista Soderini, c. Sept. 13-21, 1506; quoted in De Grazia 1989, p. 75; Cf. 'Exhortation' (1525-7) (quoted for example in Ibid, at pp. 75, 269) for the fallen nature of man, turned away from God and transformed from a rational animal into a 'brute animal'; Cf. Parel, 1992, p. 65.

20 *Prince*, 25, p. 87.

21 *Prince*, 25, pp. 84-5. *Discourse*, III, 9, p.452. Parel, 1992, p. 66. The notion of fortune controlling 'the times' is expressed in his poem 'On Fortune' (translated and included in Parel, 1992, pp. 70-1): '...She disposes of time as suits her: she raises up/ she puts us down without pity, without law or reason'.

22 See Parel, 1992, pp. 68-70 for a discussion of recent scholarship on this important distinction.

precautions, by means of dykes and dams, so that when it rises next time, it will either not overflow its banks or, if it does, its force will not be so uncontrolled or damaging.' He is referring to Italy, and the reference to dams and dykes are to its state of diplomacy, and its military preparedness in relation to its neighbours and enemies.²³

Individuals have a different set of problems presented by fortune. Aside from being responsible for chance, luck and *occasione*, 'she' also controls time, honour, riches, and health, as well as providing each person with his or her basic humour.²⁴ The kind of problems she generates for individuals include the fragility of success ('flourish today fail tomorrow'), the often irrelevance of the moral virtues in gaining political success, and why political actions are judged according to their outcomes and not their means.²⁵ Machiavelli answers all these questions, Parel claims, with reference to the cosmological and astrological nature of the 'quality of the times, the humour and temperament of the actor...and the fixity of particular human nature'.²⁶ Though fortune prefers the impetuous over the calculating, and young men who are aggressive and bold, success can only be gained if one acts in accordance with the quality of the 'general time', which is extremely difficult to do, since no amount of human ingenuity can guarantee it, and ultimately the relation between one's own time and the general time can only be harmonized by fortune. One's humour and temperament, as he makes clear in chapter 25 of *The Prince* and his letter to Soderini, are crucial to the pursuit of glory and riches. Different temperaments may sometimes be equally successful, and someone who was once successful might soon fail, or

23 *The Prince*, 25, p. 85. See also *Discourses*, II, 1, p. 324-5 where Machiavelli ascribes Rome's success to the 'efficiency of her armies...the order of her proceedings and her method, which was her very own and discovered by her first lawgiver, caused her to keep it when conquered'.

24 See *Discourses*, I, 3, p. 201. *Prince*, III, p.11. On the feminine characteristics of fortune see Hanna Pitkin, *Fortune is a Woman*, Berkely, University of California Press, 1984; and De Grazia 1989, pp. 211-15.

25 These are discussed in *The Prince*, 25, pp. 85-7, and the Letter to Giovan Battista Soderini, 15 September 1506, reprinted in Skinner and Price 1988, pp.97-99.

26 Parel, 1992, p. 75. Cf. Pocock, 1975, pp. 189-90. Skinner, 1981, p. 56. See also *Discourses*, I, 3, p. 201; '(time)...which they say is the father of all truth'.

their temperament will not allow them to act according to the times.²⁷ Not even the wisest of men can avoid their own nature and fortune. Parel's claim here is that Machiavelli has rejected the classical notion of *phronesis*, or 'right reason', in favour of the sovereignty of temperament as the guiding principle of human conduct. One can only overcome fortune with fortune's help.²⁸ Yet how can we square this with Machiavelli's stated claim that he does not want to 'eliminate human freedom'? Well, rather unconvincingly, he proposes that fortune 'is the arbiter of half our actions, but that it lets us control roughly the other half'.²⁹ What kind of human autonomy is this? Machiavelli is difficult here, and though it appears he means that we are only free to act according to our humour and temperament, this unchanging nature of men is one of 'variability within wide limits'. By acknowledging some element of choice, by expending so much analytical effort on providing the grounds for the prudent exercise of the art of the stato (in *The Prince*) and the art of the Republic (in the *Discourses* and elsewhere), Machiavelli must believe in at least some moral potential, something which escapes the tendency towards evil. Thus Parel's claim must be too strong, and that Machiavelli's account of *political*³⁰ action and motivation (at least in the texts other than *The Prince*) is not something profoundly different from acting according to the dictates of moral reason or the *recta ratio* of Cicero and other classical theorists.³¹ However it is true that he sees

27 *The Prince*, 25, p. 85: 'I believe that we are successful when our ways are suited to the times and circumstances, and unsuccessful when they are not'. Also, p. 86; 'if it were possible to change one's character to suit the times and circumstances, one would always be successful'.

28 Parel, 1991, pp. 335-7; 1992, p. 79.

29 *The Prince*, 25, p. 85.

30 As Viroli (1992) and Rubinstein (1987) have made clear, Machiavelli keeps to the convention by only using the language of *politico* in relation to of the art of the republic and the creation and preservation of *vivere civile* (or *vivere politico*).

31 Cf. *The Prince*, chapter 26 [Exhortation to liberate Italy from the barbarian yoke] when he writes that 'you must play your part, for God does not want to do everything in order not to deprive us of our freedom and the glory that belongs to us'. (p. 89) Parel claims, not without plausibility, that this is used for rhetorical rather than theoretical effect, since he has elsewhere rejected this basically Christian stand point and he provides no real argument to support it. But see also in the *Art of War*, where in discussing the role of the young in discussing military affairs he writes that those whose 'hair is white and blood cold' are the

clearly how 'necessity' plays a crucial role in human conduct, whether in dealing with the unpredictability of nature or making careful preparations to achieve certain premeditated goals.

The question of human causality brings us to Machiavelli's complex account of *virtu*. As we have seen, it remains the main weapon in the struggle with fortune, but one strictly limited in scope. *Virtu* is basically that disposition or ability of a group or individual to act in a way conducive to the good of the republic or the state, depending upon one's allegiances. In *The Prince*, though obviously writing with the classical sense of moral virtue in mind, and aware of the connections some of his readers would make, Machiavelli, in contributing to the humanist genre of princely advice-books, provides a radically different set of claims. Here the virtues have no independent status outside (of) their ability to contribute to the maintenance and glory of the state. A truly *virtuoso* prince was one who would be willing to do *whatever* was necessary for the preservation of his *stato*, unconstrained by the classical (and christian) moral virtues.³² In case of both a principality and the state, the needs of society were served by patriotism (however inculcated), the love of the 'fatherland' which claimed a complete adherence even to the neglect of one's own personal good. Because the main goal of politics in the context of a *stato* was its preservation (i.e. 'statecraft'), all that was required was a reputation for private virtue, since 'men judge more by their eyes than by their hands...everyone can see what you appear to be, whereas few have direct experience of what you really are'.³³ Here *virtu* is also directly linked to the cosmological background that I sketched above, as well as to Machiavelli's basic conception of human nature. To exercise *virtu* was to act according to one's humour, which produced the external goods of riches and glory necessary for the perpetuation of the state, or

traditional opponents of war, and are like 'those who believe that the times and not bad customs force men to live in this way'.

32 *Prince*, 18, p. 62. *Discourses*, III, 41, pp. 519. Skinner, 1981, pp. 38-41. Viroli 1992, chp. 3 *passim*. Parel 1992, pp. 86-7.

33 *Prince*, 18, p. 63.

in the case of the republic, the prevailing of the common good over that of particular individuals. And of course ultimately, efficacy (*virtu*) was dependent upon the quality of the 'times', which provided the *occasione* to behave in the appropriate manner.³⁴

3.2 Moral personality and virtuous action

What lies at the base of this exercise of *virtu*, the self which inhabits this world of celestial motions, humours, and reigning *fortuna*? Machiavelli provides no systematic discussion of the 'self', the soul, or even human nature in general, but he does have a view which we can deduce from various places in his work.³⁵ The first thing to note is that Machiavelli denies that men are naturally endowed or driven to live together virtuously in political society (beyond any basic sociable tendencies); the notions of goodness, virtue, and justice for example, come only after the establishment of a form of 'state' which arises out of a primordial need for security.³⁶ Men need security in order to pursue glory and riches, the constants Machiavelli sees as present in all of humanity. Furthermore, a wise legislator should assume that men are by nature 'evil' and that they will always 'act according to the wickedness of their spirits whenever they have free scope'.³⁷ Parel interprets the occult reference in this passage - the 'malignity' of spirit - as indicative of the nonphysical but real influence of the heavens, stars, and planets over human behaviour. It is not a malignity of soul (*anima*), but of spirit (*animo*), which in 'natural' (astrological) philosophy was a capacity to form intentions, but which did not survive the dissolution of the body. *Animo* is the other quality (or faculty), aside from a person's humours, that enables him to perform virtuous actions, and like one's temperament and the 'times' within

34 For example, *The Prince*, chp. 25, p. 86: 'Pope Julius II always acted impetuously, and found the times and circumstances so suited to his ways that he was always successful'.

35 We might say that the concept of 'self' is a modern term which denotes our disbelief in the transcendent qualities associated with the older concept of 'soul'. As has been noted by many commentators, Machiavelli gives the topic of the soul short shrift, in fact, he seems to deny its importance altogether.

36 *Discourses*, I, 2, pp. 197-8. De Grazia 1989, pp. 268-70. Parel, 1991, p. 334; 1992, p. 87.

37 *Discourses*, I, 3, p. 201. Cf. the translation in Parel 1991, p. 334.

which one lives, it is an aspect the individual has little or no control over: 'you always act as Nature inclines you'.³⁸

Another important context for a discussion of the Machiavellian 'self' or 'personality' is its relation to the treatment in Aristotle, and also, in keeping with the discussion presented in chapter 1, in Cicero.³⁹ Two key components of Aristotle's discussion of virtue and its inculcation in human conduct are important here; a consideration of 'character' (*ethos*) and 'disposition' (*hexis*), especially as presented in the *Nicomachean Ethics*.⁴⁰ For Aristotle virtue is embedded within the foundation of character, a particular condition of the soul and mind wrapped up in complex ways with nature, habit and instruction. He distinguishes between intellectual virtue, which owes its inception and growth primarily to 'instruction', and moral goodness, which is more the result of habit: 'The moral virtues, then, are engendered in us neither *by* nor *contrary to* nature; we are constituted by nature to receive them, but their full development in us is due to habit'.⁴¹ In developing proper 'habits' and 'dispositions' (*hexeis*)⁴² we develop, and then adhere to a well-formed moral character, one capable of anchoring virtuous conduct in such a way as to ensure a certain constancy of action in the face of the vicissitudes of every day life. Thus, morally significant actions are rooted in good character, but here character is not a wholly natural or given state, it must be developed

38 *Discourses*, III, 9, p. 452.

39 And of course those aspects of the Aristotelian and (especially) Ciceronian arguments represented and reworked in fifteenth and sixteenth century humanist texts. Parel almost completely ignores this context, though perhaps understandably given his overall aims. The best discussions of these texts are now found in Skinner 1978, Viroli 1992, and Tuck 1993. Cf. Baron 1988, vol II., pp. 111-112 (quoted also in Viroli 1992, n.71, p. 154): 'the institutions and laws [viz. the wisdom of ancient politics] are [in Machiavelli's republican works] the matrix of a people's political health and ethos'.

40 Aristotle, *Nicomachean Ethics*, trans. J.A.K. Thomson, rev. Hugh Tredennick, intro. Jonathan Barnes, Penguin, 1986.

41 *Ethics*, 1103a14-b1, p. 91.

42 *Ethics*, 1106a: 'what faculties we have, we have by nature; but it is not nature that makes us good or bad. So if the virtues are neither feelings nor faculties, it remains that they are dispositions. We have now stated what virtue is generically.' p. 99.

and actualized.⁴³ This occurs by way of moral education, or more accurately, by moral habituation. Throughout the course of one's life (and not just when one is young), one must undergo proper training and instruction, and live under good laws, which are 'the products of the art of politics'.⁴⁴ These habits form a kind of second nature, since habits are often as difficult to change as nature (because they have taken so long to become so), and thus produce a *relative* longevity and constancy of moral character expressed in good conduct and virtuous action.⁴⁵ We acquire the virtues by exercising them, and we come to exercise them through the development of our overall character and *hexeis*, through being habituated to noble and just conduct. It is not just that one becomes virtuous through practice, but that this is how one learns what is noble and just, and thus practice enlists certain cognitive powers;⁴⁶ 'virtuous acts are not done in a just or temperate way merely because *they* have a certain quality, but only if the agent also acts in a certain state'. The ultimate aim of practice is to produce a person who acts virtuously in the full knowledge that he is doing so 'from a fixed and permanent disposition'.⁴⁷ Of course the question *why* moral virtue has to be acquired by habituation is not as straightforward

43 *Ethics*, 1179b29: 'feeling seems to yield not to argument but only to force. Therefore we must have a character to work on that has some affinity to virtue: one that appreciates what is noble and objects to what is base' (p. 336-7) The last part of book ten is a discussion of how to bring about this 'education in goodness' (1179b29 - 1181b23).

44 *Ethics*, 1181a12-b10. Also, 1103b: 'Legislators make their citizens good by habituation; this is the intention of every legislator' (p.92).

45 On habit as a second nature, see *Ethics*, 1115a20-b4. See also 1147a21-22, though Thompson substitutes 'assimilated' for 'second nature'. I emphasize 'relative' longevity and stability of character because Aristotle certainly does not believe he can lay a foundation for virtuous conduct wholly impermeable to fluctuations in fortune or divorced from external conditions (as Nederman, 1992, pp. 2-3 seems to imply). See especially *Ethics*, 1099a32-b20 (pp. 79-80), and *Magna Moralia*, 1206b30-5. For a superb discussion of the issues of luck in Greek philosophy and tragedy see Martha Nussbaum, *The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy*, 1986, especially pp. 318-372.

46 For an excellent discussion, see M. F. Burnyeat, 'Aristotle on Learning to Be Good', in *Essays on Aristotle's Ethics*, ed. Amelie Okensberg Rorty, University of California Press, Berkeley, 1980, pp. 69-92.

47 *Ethics*, 1105a28-33 (p. 97). This obviously raises the question of to what extent Aristotle's concept of practical reasoning (*phronesis*) relies on or presupposes a seemingly non-rational cognitive state of non-rational moral virtue. I won't pursue this here. For a useful discussion see Troels Engberg-Pedersen, *Aristotle's Theory of Moral Insight*, Oxford University Press, 1983, especially chapter 7.

as I have presented it here, but for my purposes I shall assume that it is enough to show that it *does* have to be so, at least according to Aristotle.⁴⁸ He addresses the practical task of doing so towards the end of the *Ethics*. It is no easy task because most people have barely ever had a 'taste' of what is 'truly pleasurable': 'What discourse could ever reform people like that?' asks Aristotle. At most, we must be content with attaining only 'some portion of goodness'.⁴⁹ Everyone though, regardless of whether or not arguments will sway them, must be given the means to a good life, such as food, clean water, security, and an education. It is one of the tasks of politics to provide the material and institutional basis for the development of a good character and the exercise of rationality; ethical lapses for Aristotle are due to 'bad politics', not original sin.⁵⁰ Now the best means for an education in goodness is one undertaken by the state, where laws which 'cover the whole of life', from upbringing to occupation and to old age, are enacted to help foster and maintain the good *hexeis* of (certain) members of the population. One makes others better by supervision by acquiring the art of legislation, which involves a mixture of knowledge and experience grounded in a 'formed habit of mind' enabling one to judge what 'is rightly enacted and what is the opposite, and what sort of legislation is suitable for different circumstances'. Failing 'a proper system of public supervision', it is up to the individual to help his own children and friends 'on the way to goodness' especially in the case of a father, whose authority has as 'much force in the household as laws and customs have in the state, and even more'.

Another influential classical account of moral character is provided by Cicero in the *De officiis*. I have discussed this above in some detail,

48 On the intricate question of why moral virtue has to be acquired by habituation, see Burnyeat, 1980, pp. 69-92; Engberg-Pedersen, 1983; and the excellent review of Engberg-Pedersen by Rosalind Hursthouse, 'Moral Habituation', *Oxford Studies in Ancient Philosophy*, ed. Julia Annas, vi, Clarendon Press, Oxford, 1988, pp. 201-219.

49 *Ethics*, 1179b7-29 (p. 336).

50 See Martha Nussbaum, 'Recoiling from Reason' (A review of Alasdair MacIntyre's *Whose Justice? Which Rationality?*), *New York Review of Books*, December 7, 1989, p. 41.

so I shall move directly to the point. Remember there we saw Cicero presenting a *four-personae* schema in the context of a general theory of *decorum*, which presupposed a particular social structure, within which are situated specific social roles and correlative styles of living. One had to know oneself well in order to choose the appropriate role, like an actor choosing the part to which he or she is best suited according to their voice or build. And like Aristotle, our ability to conduct ourselves appropriately was dependent on not only the realization and acceptance of our nature, but our being instructed and habituated to doing so, in such a way that we knew what the good demanded of us and how to act upon it over the course of our entire lives. Moreover, and this is a point I want to make here, Cicero emphasized that our nature - meaning our personal 'inclinations', attitudes, and natural talent'⁵¹ - was basically given, and not subject to modification. This is expressed in numerous places in the *De officiis*, but perhaps no where more clearly than when he wrote;

In such deliberation (over which course of life a man should follow) all counsel ought to be referred to the individual's own nature. For just as in each specific thing that we do we seek what is seemly according to and how each of us has been born...we must exercise much more care when establishing our whole way of life, so that we can be constant to ourselves for the whole length of our life, not wavering in any of our duties. Nature carries the greatest weight in such reasoning, and after that fortune. (DO, I. 119-120)

If I discover I have made a mistake in my choice of way of life (and Cicero admits this can happen), I must change my behaviour and plans to suit my true nature, and not *vice versa*. It is important to note the emphasis Cicero places on the apprehension and cultivation of our nature as a duty (*officia*) of the citizen. A person born to rank who does not justify it through his social and (especially) political conduct is not worthy of it, since he takes advantage of his rights without acknowledging his duties.

We know Machiavelli was familiar with these arguments, and not just in some general way, for in fact, if we compare some of the elements of his conception of moral psychology (particularly in *The Prince*) with the classical ones mentioned above, there are striking

⁵¹ See the different examples Cicero provides in *DO*, I. 109-111.

similarities. His famous letter to Soderini mentions the core of what he would deal with at length in Chapter 25 of *The Prince*, that 'just as nature makes men with different faces, it also produces different kinds of mind and temperament...(and) every man acts in accordance with the bent of his mind and temperament'.⁵² In chapters 19 and 25 he notes that a determining factor of a number of emperors who ruled in different ways (whether 'humane' or 'rapacious') was the nature of their conduct according to their various, fixed, *qualita.*: 'we are successful when our ways are suited to the times and circumstances, and unsuccessful when they are not'.⁵³ Machiavelli also accepted the importance of instruction and habituation in the formation of character that we found in Aristotle and Cicero, not only in the way he uses the educative mirror-for-princes genre (however subversive he is of it), but in his explicit emphasis on the role of good education and good laws, about which I shall say more below.⁵⁴ He also accepts the Ciceronian emphasis on the responsibility of the ruling class to live up to their nature and the duties therein; 'if he is a man whose position makes him noteworthy...(I)t is not enough to say "I do not care about anything, I do not desire either honours or profits, I wish to live in retirement and without trouble"...Men of rank cannot decide to sit quietly even when they decide truly and without any ambition'.⁵⁵ Of course the twist Machiavelli puts on this classical perception of moral character is to reverse its significance; it was precisely the fixity of conduct which was the problem in the face of the slings and arrows of external circumstances and fortune.⁵⁶ The truly virtuous prince

52 *The Prince* p. 98.

53 *Prince*, 25, p. 85-6; 19, p. 67. See also *Discourses*, III, 9, p. 452.

54 See *Discourses*, 1.4 (p. 114) Also, II.2 (p. 277 of Walker 1983 translation, missing in Gilbert 1965, see Quentin Skinner, 'Machiavelli on the Maintenance of Liberty', *Politics* (Australian Political Studies Association), 18, 2, 1983, pp. 3-15, at p. 7 and n.35): 'If one asks oneself how it comes about that peoples of old were more fond of liberty than they are today, I think the answer is that it is due to the same cause that makes men today less bold than they used to be; and this is due...to the difference between our education and that of bygone times'. Also Pocock, 1975, 195-6.

55 *Discourses*, III, 2, p. 424.

56 Cf. Nederman, 1992, p. 12-13.

needed a flexibility of action, and thus a flexible disposition and character. The 'new prince' had to be prepared to vary his conduct, to deviate from 'the right' when circumstances demanded it. It is this flexibility - 'considering everything carefully' (as Machiavelli constantly asks his readers to do) - which as Nederman points out, is the 'core of Machiavelli's "practical" advice' in the *Prince*. And yet this sits uneasily with his belief in the 'givenness' of human character (that at least half of all our actions are beyond our effective control) and his general pessimism about human nature.⁵⁷ It was indeed a 'volatile paste',⁵⁸ and it is difficult for any modern reader to ever fully resolve this tension; it is an ambiguity which rests in the very center of Machiavelli's mature political philosophy.

3.3 Machiavelli and modernity

Yet one recent powerful and influential reading of Machiavelli's political theory, and especially his concept of liberty, has taken a very different route than the one I have pursued up to now. In a series of articles,⁵⁹ Professor Skinner has proposed an interpretation of

57 See the *Discourses*, I.3 (p. 112). Also the discussion of how to establish 'free government' in corrupt cities at I.18, where if called upon to create or maintain a republic in these conditions, one should strengthen the authoritative-monarchical elements within the constitution rather than democratic ones: 'To try to make them become good in any other way would be either a most brutal or an impossible undertaking'. (p. 164) On this chapter and the complex relationship between *The Prince* and the *Discourses* in general, see the classic article by Hans Baron, 'Machiavelli: Republican citizen and the Author of "The Prince"', in Baron 1988. Pocock even suggests that at its height, *cinquecento* civic realism was 'a kind of negative capability of the Aristotelian mind' in showing just how difficult the maintenance of a republican order really was. Of course where there had already been a republic (as in Florence) the problems of a new regime trying to establish itself were of a different kind; Machiavelli addressed these in his *Discursus florentinarum rerum* and *Istorie Fiorentine*, both contributions to the constitutional debates in Florence following the death of Lorenzo de' Medici in 1519.

58 De Grazia 1989, p. 77.

59 I shall list the relevant articles in full: Quentin Skinner, 'Machiavelli on the Maintenance of Liberty', *Politics* (Australasian Political Studies Association), 18, 2, November 1983, pp. 3-15; 'The idea of negative liberty: philosophical and historical perspectives', *Philosophy in History*, ed. Richard Rorty, J.B. Schneewind, Quentin Skinner, Cambridge University Press, 1984, pp. 193-221; 'The Paradoxes of Political Liberty', *The Tanner Lectures on Human Values*, VII, ed. S.M. McMurrin, University of Utah Press, Cambridge, 1986. pp.227-50 (reprinted in *Liberty*, ed. David Miller, Oxford University Press, 1991, 183-205.); 'The republican ideal of political liberty', *Machiavelli and Republicanism*, ed. Gisela Bock, Quentin Skinner, Maurizio Viroli, Cambridge University Press, 1990, pp. 293-309; 'On Justice, the Common Good and the Priority of Liberty', *Dimensions of Radical Democracy: Pluralism, Citizenship, Community*, ed. Chantal Mouffe, Verso, London, 1992, pp. 211

Machiavelli's republican political theory which, he argues, is not only more historically accurate, but as a result can serve as a resource (or at least a 'moral') for our contemporary political discourse. There are two components to this kind of argument, as I noted above. Firstly a claim about a particular historical narrative, and secondly about how this narrative has meaning for us *today*.

Let us turn to the historical argument.⁶⁰ I want to list a number of key points and then isolate those which I think are the most important, and which throw into relief the arguments I have sketched above - especially with regard to Machiavelli's understanding of human nature and human action, and his conception of liberty.

To begin with, there is a substantive connection between the freedom of the city and the individual liberty of the individual (or 'negative liberty' as Skinner insists). This is because free states govern themselves according to their own will ('by their own judgement'), which is the general will of the body politic, the citizens.⁶¹ This connection is not monist in nature argues Skinner, since different individuals value the liberty they derive from the existence of the state for different reasons, and put it to use for different purposes. If the prince looks carefully at what 'the reasons are that make them wish to be free', he will find that a small number wants to be free in order to rule, but that all the others ('who are countless') 'wish freedom in order to live in security'.⁶² Thus to be free is to be unconstrained from pursuing whatever goals one has, and the security to be able to do so can only be provided by a self governing community, a republican

224; and 'The Italian City-Republics', in John Dunn ed., *Democracy: The Unfinished Journey 508 BC to 1993 AD*, Oxford University Press, 1992, 57-69 (especially at 65-69) Aspects of the historical argument are also discussed in Skinner, 1981, especially chapter 3; and in 'Political Philosophy', *CHRP*, pp. 430-452.

60 To keep the narrative moving, I shall refrain from citing each article from which the points come, and refer the reader to n.59 above for the complete list. There is a fair amount of repetition of the basic historical argument in all the articles.

61 *Discourses*, I.2, p. 195.

62 *Discourses* I.16 (p.237). This concept of security is crucial for Machiavelli (and for Skinner) both in relation to the state and the individual. I shall say more about it below.

government.⁶³ Now if a self governing republic is the only type of regime under which a community can obtain greatness and preserve the individual liberty of its citizens, how can it be brought about and maintained? By its citizens possessing civic virtue. What are these qualities? Firstly, there is the courage needed to defend one's community against external aggression and conquest, a task best carried out by those who have the most to lose - the citizens of that community. Individuals must cultivate the 'martial virtues' and place them at the disposal of the republic.⁶⁴ We also need a civic prudence - a knowledge of the art of the republic - which allows us to play an effective role in the decision making process of the city, and to carry out our duties of public service. This can be displayed at two levels; by the prudent experienced statesmen and through the *prudente ordinatore* on the part of all (or at least many of) the citizens.⁶⁵ This is

63 See *Discourses* 2.2, p. 329. (Note that this is not the argument of *The Prince*) There is considerable debate over whether Machiavelli means that liberty can only be achieved in a republican regime, or if it could also be had in a principality or in a 'kingdom' such as France, about which he comments in a number of places in *The Prince* (chp. 19, p. 66 and chps. 4 & 5) and *The Discourses* (for example, I. 16, p. 237-8, and I. 58, p. 31, where he says it is 'a kingdom more tempered by the laws than any other kingdom of which we have notice in our times'). See Colish, 1971, and Skinner, 'Reply...', 1988, pp. 258-9. Viroli (1992, p. 131) insists that the *vivere politico* is a specific form of political organization which precludes tyrannies or despotic rulers, since it can never be a state of 'somebody' but of everybody. Hence Machiavelli refers to 'lo stato' di France or del Turco in *The Prince*, and never in the language of *politico* or the *vivere civile*. Note that neither of these ways of describing either the 'stato' or the *vivere politico* (the *res publica*) ascribed the impersonal characteristics of the fully modern understanding of the state we see in Hobbes for example; see Quentin Skinner, 'The State', in Terence Ball, James Farr, Russell L. Hanson eds., *Political Innovation and Conceptual Change*, Cambridge University Press, 1989, 90-131, especially at 102-112.

64 See *Discourses* 2.2, p. 332; 2.12, p.356, 2.20, pp. 381-2; and *passim*. *The Prince*, chapters 12, 13, pp. 42-51. On the centrality of the martial virtues to the civic humanist tradition as a whole, see Pocock, 1975, pp. 183-218, especially pp. 212-214 where he claims the popular republic is based on virtue of the armed citizen: 'Virtuous republics were at war with one another. For this reason the Christian virtues and the civic could never coincide; humility and the forgiveness of injuries could have no place in the relations between republics, where a prime imperative was to one's city and beat down her enemies'. Cf. the discussion in De Grazia 1989, pp. 164-75 (showing a certain sensitivity on the part of Machiavelli to the awfulness of war); and Viroli 1992, pp. 162-4 (emphasizing that though indispensable to the growth and maintenance of the *res publica*, war should never be pursued simply for its own sake and only for the peace and security of the citizens).

65 On the prudence of the great statesman, see *Discourses* III. 25, and *passim*. On that of the wider public, see especially I.9, p. 218: 'though one alone is suited for organizing, the government organized is not going to last long if resting on the shoulders of only one; but it is going to last long if it is left to the care of many, and when its maintenance rests upon

a commitment to the civic equality (*aequa libertas*; cf. Cicero DO, I.124) of the republic, ensuring that each humour has its place, those possessing the greatest virtue obtain the highest office, and that holding public office and acting effectively is indeed the way to demonstrate one's virtuous character. Every citizen must also cultivate the willingness to avoid 'disordered' behaviour, and ensure that civic affairs are carried out in a well ordered (*ordinariamente*) and well-tempered style.⁶⁶ [As we shall see, this does not mean that there should not be a certain amount of civic 'commotion'] Failing the presence of men of prudence who understand 'the ancient forms of society' and the art of the republic, and a population displaying the qualities of courage, civil prudence, and orderliness, communities cannot be expected to maintain their liberty.⁶⁷ The catch is, as we have seen, that Machiavelli does not place great faith in the people ever coming close to cultivating these virtues, or maintaining any kind of constancy in appropriate conduct. Though there are good reasons in acting for the public good, political leaders and the people become blinded to the nature of their own best interests. This is because men's natures are

many'.

66 I think De Grazia (1989, p. 182) puts this well when he writes: 'Dedication to the ideal of the common good and the equality it implies leads Niccolo to make a most intensive study of factions, of "the divisions", "parts" or "sects" that arise within a state and work against the common good'.

67 As Machiavelli claims occurred in the Tuscan republics of Florence, Siena, and Lucca. See *Discourses*, 1.55, p. 309. These capacities add up to a kind of 'mutuality', where no one serves *umilmente* nor dominates *superbamente*. Compare the 'mutuality' of Machiavelli to Cicero's emphasis on the centrality of justice to the human experience, which enhances the 'communal' of humankind and reinforces their associative instinct (*De Officiis*, 1. 20-41). Justice and temperance link 'the degree of concern for one's fellows to an appropriately sociable level'. Machiavelli's discussion of republican order in his *Istorie Fiorentine* (1520-5), though emphasizing stability more prominently than liberty (as a way of convincing the Medici that their best strategy for ruling Florence was by way of a republican constitution rather than some veiled principality), is an excellent example of how it could ensure that every component of the city could find its place within its institutional framework. The *Discursus* expresses similar views with regard to ensuring that all three types of men in the city have their place. See Viroli 1992, pp. 166-73 for an excellent discussion of the whole context of this debate. Cf. C.J. Nederman, 'Nature, Justice and Duty in the Defensor Pacis: Marsiglio of Padua's Ciceronian Impulse', *Political Theory*, Vol.18, no.4, November 1990, p. 625; Cf. Neal Wood, 'The value of Asocial Sociability: Contributions of Machiavelli, Sidney and Montesquieu', in *Machiavelli and the Nature of Political Thought* ed. Martin Fleisher, Atheneum, New York, 1972, 282-307.

basically corrupt, and if left alone, will always place their own self interest above the interests of the community.⁶⁸ Ordinary people are lazy and ignore their civic duties, and leading citizens are too often moved by personal ambition (*ambizione*) which corrupts the free institutions by warping them to favour a particular faction or social group.⁶⁹ Machiavelli neatly summarizes this towards the end of Book I of the *Discourses*: 'the people, deceived by a false image of good, many times desire their own ruin. And if somebody in whom they have faith does not convince them that what they want is bad and explain what is good, countless dangers and losses come upon the republic'.⁷⁰ This is the central paradox of Machiavelli's political theory, at least for Skinner; individuals think that their own interests lie in evading civic duties and reshaping public institutions to suit their own ends, when in fact by doing so they undermine the free institutions and basis of the community upon which their individual liberty rests.

The 'deepest' and 'most troubling' question for republican writers then is 'how can naturally self-interested citizens be persuaded to act virtuously'?⁷¹ For Machiavelli the answer is quite straightforward

68 *Discourses*, 1.18, p. 242; 2.15, p. 361; 2. 22, p. 385-6.

69 On the laziness of the people, see the *Discourses* I. 30, p. 260; see also his argument at 2.2, p. 330-2, where Machiavelli accuses contemporary religion of glorifying 'humble and contemplative men rather than active ones', whereas ancient religion put the greatest good in the 'grandeur of mind...strength of body, and in all the other things apt to make men exceedingly vigorous.' On the ambition of the ruling class, see 1.8, p.216; 1. 29-30, p. 257-60; I. 33, p. 265; and especially 1. 37, p. 272: 'Whenever men cease fighting, through necessity, they go to fighting through ambition, which is so powerful in human breasts that, whatever high rank men climb to, never does ambition abandon them'.

70 I. 53, p. 302. It is important to note that people habitually do so (as we have discussed above) as a result of bad training and education. Machiavelli is explicit about this at *Discourses* 3. 30, p. 496: 'when they are men used to living in a corrupt city, where education has not produced any goodness in them, they cannot because of any emergency reverse themselves; but to gain their desire and to satisfy their perversity of mind, they are content to see the ruin of their country.'

71 Skinner, 1990, p. 304-5. On the self-interestedness of men see *The Prince*, chp 17, p. 59: 'men are excessively self-interested [and break the bonds of gratitude] whenever they see a chance to benefit themselves'. See the examples of such behaviour in chaps. 9 (p. 36), 22 (p. 80), and 23 (p. 82). The key term here is 'utility', which remains a positive term only so long as it has no ill effect on the common good; in the *Istorie* one of the citizens accuses the opposition of being moved by the love of faction (*loro propria ambizione*) rather than by the common interest (*utilita publica*). See De Grazia 1989, p. 177. Cf. Tuck 1993, p. 39 for a different view; he suggests that the term self-interest 'seldom' occurs in Machiavelli.

(though he considers a number of potential solutions before rejecting them); it is the laws that make men good, since 'by fear of punishment men are kept better and less ambitious'.⁷² Republican government (and government by princes) only lasts when regulated by good laws, because 'a prince who can do what he wants to is crazy; a people that can do what it wants is not wise'. Ideally, all citizens ought to be 'chained' to the laws.⁷³ Laws should prevent concentrations of power, bribery, and corruption, and a special magistracy should be established with the duty of guarding the liberty of the city against any who seek to undermine it. In essence, Machiavelli is making a (now) familiar argument that we must be forced to be free, based on two key assumptions; his pessimistic view of human nature, and the fact that since *virtu* is indispensable for the maintenance of public as well as personal liberty, our corrupt behaviour must somehow be neutralized. The law operates to channel the individual's behaviour in such a way that his reasons for action remain unchanged (self-interest), but their consequences do, namely, they promote the public interest and as a result, paradoxically, his own individual liberty. The 'channeling' of conduct occurs through the installation of a republican constitution founded on the proper mixing of the two humours we discussed above.⁷⁴ This rivalry is exploited to the benefit of the community, since by the force of law the people are 'liberated' from the consequences of their natural corruption and transformed, so to speak, into virtuous citizens - as Machiavelli claims occurred in republican

72 *Discourses*, I. 29, p. 259; I. 3, p. 201. Machiavelli considers three other possibilities in the course of the *Discourses* - transcending selfishness by the inculcation of virtue by education (3. 27, p. 490), via truly virtuous leadership (3. 1, p. 423 and Book III generally), and finally by manipulating the religious beliefs of the people (1. 11, p. 225). He is pessimistic though, about their ability to overcome human nature, and moves to work with men 'as they are', and in general, that they exhibit a strong tendency to be corrupt. (I. 17, p. 239-40) He returns however, to the potential of religion as an instrument of the public good, at 1.11, pp. 224-226.

73 *Discourses*, I. 58, p. 316.

74 As Tuck points out (1993 pp. 95-6) the idea of a mixed constitution as opposed to a balanced one becomes common by the end of the sixteenth century, as the language of self-interest begins to dominate political argument. Machiavelli, with all his concern for the proper mixing of humours in a *vivere politico*, is still very much within the language of mixed constitutions.

Rome.⁷⁵ There are two aspects of the application of law to the opposing humours which need to be pointed out. The effectiveness of law derives in part from the fact that it is applied as impartially as possible, and seen to be so.⁷⁶ Machiavelli provides a number of examples from Roman history to illustrate this point, including that of Coriolanus, who attempted to take back the rightful authority of the people and who was dealt with in a lawful and orderly fashion by the tribune acting in the interest of 'liberty' and the republic as a whole, rather than for the mob or for the benefit of a particular faction.⁷⁷ The second point is that the law should be executed within a context of severity, fear, and terror, a point Skinner does not discuss (except for the 'fear of god', see below). To maintain newly gained liberty, 'Brutus' sons' must 'suffer some striking prosecution' - i.e. be killed - if a free state is to maintain itself. There will always be 'sons of Brutus', and indeed there must be, so that such exemplary acts can take place in order to refresh the memory of the population for the need to act virtuously and to obey the law.⁷⁸

Machiavelli also proposes that religion be enlisted in the same process, since Roman history shows 'how helpful religion was in controlling the armies, in inspiring the people, in keeping men good, in making the wicked ashamed'. Yet we know he was no fan of

75 *Discourses*, I. 4-5, pp. 202-206: 'those who condemn the dissensions between the nobility and the people seem to me to be finding fault with what as a first cause kept Rome free, and to be considering the quarrels and the noise that resulted from those dissensions rather than the good effects they brought about.' As Viroli points out (1992, pp. 160-2), Machiavelli is here going against the prevailing Ciceronian conventions of other humanist writers and their overriding concern with concord as a means of stability. He thinks that social conflict is unavoidable and probably beneficial (as it was in Rome) if the constitution of society (the *vivere politico*) was such that it did not degenerate into civil war.

76 In his 'Allocation to a Magistrate' (transl. A.J. Parel, *Political Theory*, 18, 4, 1990, 525-7), Machiavelli provides a definition of justice which includes the need to 'defend the poor and the weak...restrains the rich and powerful...It produces equality which being the mainstay of states is desirable in every state'. He exhorts citizens to 'close your eyes, plug your ears, and bind your hands' when called upon to judge in the context of the law. Cf. De Grazi, 1989, p. 177 (who provides translated excerpts from the same text).

77 *Discourses*, I.7, pp. 212-213. Machiavelli considers in turn, 'calumny' (I. 8), the establishment of the Decemvirate (I. 35, 40-46), and the position of Dictator (I. 33-34).

78 *Discourses*, III. 3, pp. 424-25. Machiavelli even recommends that these executions should take place every ten years, to help guard against corruption (III. 1).

'modern' religion, but that of the ancients, which kept men down to earth, and was more conducive to underlining, rather than undermining, support for the common good. Practically this meant enacting laws concerning religion which insisted on the absolute sanctity of oaths, thus presenting the political leadership with the option of imposing oaths of virtuous behaviour upon the population.⁷⁹ Again it is claimed, as in the case of the general use of law, that this will not change people's actual dispositions, but will coerce them into not evading their public duties, since if they are religious they will want to keep their promises and avoid the wrath of god.

I want to isolate two key points upon which Skinner places a great deal of emphasis in his interpretation of the 'Machiavellian self' and liberty. The first is his insistence that Machiavelli, and the 'classical republican theory of liberty' in general, 'never' argue that individuals are moral beings with determinate purposes, and it is not therefore a condition of the realization of our liberty that certain purposes be fulfilled.⁸⁰ Thus for Skinner, they defend a 'purely' negative view of liberty as the 'absence of impediments to the realisation of their chosen ends'.⁸¹ On this view, liberty is reduced from being some kind of exalted end of human fulfillment, to simply the instrumental means

79 *Discourses*, 1.11, p. 224. On the Machiavelli's disdain for 'contemporary' religion, and respect for ancient pagan theology, see, aside from the *Discourses*, the *Art of War*, where his insistence on military oaths being binding on both the body and the soul (i.e. that breaking them was a sin) was taken up (and implemented) by his protege Giannotti in his proposals for the militia (*Dicorso di armare la città di Firenze*, 1529). There is an excellent discussion of the role of oaths and ritual in this period along with fascinating historical detail of the events of the Late Republic in Trexler 1980, pp. 535-9. On oaths and political control, especially in the context of the late sixteenth and seventeenth century, see Harry M. Bracken, 'Minds and Oaths', in his *Mind and Language; Essays on Descartes and Chomsky*, Foris Publications, Holland, 1984, 67-82. See also Parel, 1992, pp. 52-4, 61-2.

80 Skinner, 1990, pp. 306-7. In Skinner, 1983, pp. 5, 10, he talks of how the individual in Machiavelli is not being asked to bring his desires in line with a 'higher self' in living according to the laws.

81 Skinner, 1990, p. 307. In another article in the same volume, Skinner claims that even amongst the pre-humanist republican writers (to whom Skinner shows Machiavelli to be closely related), there was a sense of each being left to pursue their own interests, and to live 'unconstrained' in a 'free way of life'. See Skinner, 'Machiavelli's *Discorsi* and the pre-humanist origins of republican ideas', in Bock, Skinner, Viroli eds., 1990, especially pp. 131, 134.

for the satisfaction of particular desires.⁸² The reason no determinant ends can be given is that republican writers accept that there is a wide variety of human aspirations and goals in the community, and the liberty to pursue these ends can only be protected by preserving a constitution whose laws do not allow us to interfere with others, and whose duties ensure the community survives.⁸³ The common benefit of a 'free community' is for some, the power of enjoying freely one's possessions 'without any anxiety...feeling no fear for the honour of his women and his children, of not being afraid for himself', in other words, 'to live in security'. Others want to be free in order to rule, and to gain the honour, glory, and power that accompanies it.⁸⁴ Moreover, cities that are organized to accommodate and protect the different aspirations and goals of its population, and thus the regime itself - i.e. which are 'living in freedom' - enjoy huge material gains. Their populations are larger since men are able to take advantage of marriage and produce children who will be 'born free and not slaves' and 'by means of their abilities' could eventually rise up through the ranks and become leaders in the community. Free cities are more prosperous too, since each man 'gladly seeks to gain such goods as he believes, when gained, he can enjoy', without fear of them being taken

82 For a similar view aimed at debunking Pocock's argument that Machiavelli sees the experience of citizenship as essential to the fulfillment of human nature, see Vickie B. Sullivan, 'Machiavelli's Momentary "Machiavellian Moment": A Reconsideration of Pocock's Treatment of the Discourses', *Political Theory*, 20, 2, May 1992, 309-318, especially pp. 312-313.

83 Ibid. Skinner makes the same point in all the articles mentioned above. Cf. Pocock, 1975, pp. 193-213 (and chapter 7 passim): 'in the last analysis all depended on *virtu* as a quality of the individual personality, a devotion to the *respublica* which rested on political, moral, and economic autonomy...success was a function of *virtu* and *virtu* was a matter of the autonomy of personalities mobilized for the public good'. (212-213) Pitkin, 1984, pp. 92-95, 246-7: 'The fraternity of Citizens implies genuine conflict...(but) there is no mere selfish or lupine factionalism here, nor any fantasy of automatic, painless unity... Such a city offers each Citizen, each class of Citizens, the genuine possibility of fulfilling individual needs, pursuing separate interest, expressing real passions'. (92-3) And De Grazia, 1989, pp. 186-190.

84 *Discourses*, I. 16, pp. 236-7. Also, I. 5, p. 204; I. 6, p. 208.

by the state or his neighbour.⁸⁵ And yet this too was always under threat by the natural ambitiousness of both the ruling class and the plebs. Wherever established legal methods did not suit their burgeoning ambitions the two 'classes' used 'extraordinary' methods to further their desires. This was particularly true in the case of the greed of the ruling class, but was also true of the plebians, who for example in the Roman republic, sought to revive the Gracchi agrarian laws and in so doing destroyed it. Thus a well-ordered republic ought to 'keep their treasuries rich and their citizens poor'.⁸⁶ The habits of civic virtue were perpetually under threat, even when evoked by the coercive apparatus of the law.⁸⁷

But can we really describe Machiavelli's concept of liberty as one that is 'purely negative', with the degree of human autonomy and variety in the choice of way of life that this modern concept implies? Is it a kind of freedom devoid of 'determinate purpose', or the presence of some objective will other than the desire to safeguard one's own personal liberty? Skinner's argument is compelling and presented with considerable skill, but I think he makes at least three major claims with regard to Machiavelli's concept of liberty which are, at the very least, questionable. The first is the enormous emphasis Skinner places on the individual nature of republican liberty,⁸⁸ which he sees as flowing from the consequences of recognizing how Machiavelli (and other republican writers including Cicero) recognized the diversity of different perceptions of *libertas* in the community. And flowing from this, how republican liberty secures the prosperity and

85 *Discourses*, II. 2, pp. 332-3. Also, I. 10, p. 222: 'In those (kingdoms) governed by good emperors, he will see a prince secure in the midst of his secure citizens, the world full of peace and justice; he will see the Senate with its authority, the magistrates with their honours, the rich citizens enjoying their riches, nobility and virtue exalted; he will see the utmost tranquility and the utmost good'.

86 *Discourses*, I. 37, p. 272.

87 This is what Machiavelli means when he speaks of 'corruption' - the rise of factions, overmighty citizens, lazy nobility and citizenry etc. See *Discourses* I. 55, pp. 306-310. See the discussion in Pocock 1975, pp. 208-10.

88 To wit, Skinner, 1990, p. 134; 'only under elective regimes are *individuals* able to live a free way of life, unconstrained by any unjust dependence or servitude' (emphasis added). See also pp. 303, 305, 307.

enjoyment of the property and possessions of the citizens without fear of it being lost. Yet, as we have seen in the discussion preceeding the presentation of Skinner's argument, the crucial passage from 1.16 of the *Discourses* (upon which much seems to rest), where Machiavelli identifies the two 'humours' of the community is not as clear-cut as implied. Not only do individuals have less scope to follow whatever goals they might have due to a combination of the intransigence of their basic natures, the quality of the 'times' and fortuna, but when Machiavelli talks about different ways in which the people want to be free, he is talking primarily of two humours - two social groups - and only then individuals as *members* of these groups. It is a sociological observation (gleaned from Aristotle) rather than a juridical definition of the relationship between the governed and the governors. Political society is composed firstly of the two humours, and then the individuals in these humours; it is not an amalgamation of 'free individuals', each pursuing his own vision of the good. Individual security derives from the political structure of the republic being such that the two humours are able to 'vent' themselves within the context of the rule of law, preserving a (fragile) social balance and the two ways of 'being free'. Liberty can only be sustained through virtue, and the arts of the republic, whether civil or military, must be ordered for the sake of the common good of all the citizens. Thus the relation between liberty and the consitutional and institutional order of government is certainly not external and contingent.⁸⁹ Politics and the *vivere politico* must shape and educate the passions and lifeplans of its citizens, it must represent and foster the republican *ethos*. There is undoubtedly a sense in Machiavelli, though mainly implicit in his discussion of justice and 'mutuality' for example, that people can be in

89 John Dunn comes to the opposite conclusion, and makes a link between Machiavelli's concept of liberty (based entirely on Skinner's account) and what he calls 'modern liberty' - defined as 'tenaciously defended rights of private enjoyment and self-expression'. See his 'Liberty as a Substantive Political Value', in *Interpreting Political Responsibility; Essays 1981-1989*, Polity Press, Cambridge, 1990, 61-84, especially p. 78. Nevertheless, I am greatly indebted to it.

part transformed into citizens. This occurs when they bring their partial and selfish needs into the political structure to meet those of other citizens, and in the process have them redefined collectively in relation to the common good. Here conflict is not merely resolved through the coercion of law, but mediated by it, and through these political struggles, citizens discover the value of the rules and principles through which they channel their desires.⁹⁰ This is nothing like a total transformation of self, but it does involve taking a particular stance toward oneself, a mode of self-cultivation where one attempts to match one's nature with the laws, helped along by the institutional matrix and reinforcing ethos of the community.⁹¹

That republican theory explicitly recognized the importance of property rights and the security of enjoying one's private possessions (including the security to dominate one's family without hindrance) is an important point, and Skinner is right to emphasize it. It is always discussed though, at least in Machiavelli and in Cicero, in the context of one's responsibility to the state and to others. As we saw in the previous chapter, Cicero *always* spoke of property and the enjoyment of private possessions in relation to the fact that 'man was not born for

90 See the *Discourses* 1. 28, p. 256, where Machiavelli discusses how Roman citizens trusted each other more than the Athenians since 'her liberty was never taken away by any of her citizens' and thus 'she had no strong reason for suspecting them and...for injuring them inconsiderably'. See 1.58, especially p. 314-15, and 3. 1, p. 420, for a discussion of the difficult but necessary actions taken by citizens, for example, in the case of the 'Ten Citizens' and Maelius the corn merchant. Pitkin, 1984, chapter 4 *passim*. is very suggestive on the issue of transformation, especially, pp. 92-3. Pocock, 1975, pp. 193-4, suggests that the most subversive message of the *Discourses* is that men do not need the superhuman in order to become citizens, 'but achieve citizenship in the world of time and fortune', and thus Machiavelli was looking for the *social means* whereby men's natures might be transformed. The legislator's *virtu* becomes less important than the social and educational processes he sets in motion. Cf. Viroli 1992, pp. 164-5. And See Pocock's discussion of Giannotti's use of militia service in the *ristorazione* of men into citizens (pp. 292-4), and Trexler's too (1980, p. 529), who argues that his belief in the role of 'formal structures' in fostering virtue (learnt from Machiavelli) pervaded his military, religious, and political thought as a whole. The importance of discipline and training is a consistent theme of *The Art of War*.

91 Peter Donaldson makes a similar point: 'When one begins to see that Machiavelli sometimes writes of self-transformation, of the preparation of of the spirit for difficult choices, one soon realizes that he always writes this way, and in fact never discusses technique in isolation from moral and psychological questions (*Machiavelli and the Mystery of State*, Cambridge University Press, 1988, p. 184).

himself alone', and must therefore consider the interests of individuals in such a way that it 'benefits - or at least does not harm - the Republic'. Machiavelli is equally explicit that it is the 'common good' and not the 'individual good' which makes cities great, and that its benefits and importance to the many far outweigh the few who might be hurt by it.⁹² Moreover, Machiavelli bitterly criticizes any retreat into the *particulare*, citizens should

love one another...decline faction...prefer the good of the public to any private interest...how much better would those princes have done...if they had endeavoured to imitate the ancients in bearing hardships and inconveniences, in performing such exploits as were done in the sunshine and not in the shade.⁹³

The possession and enjoyment of 'things' in classical republican theory does not play the role in the relation between personality and liberty that it does in natural law theory, where we really do see the emergence of 'the subject'. It is an important corrective to a simplistic interpretation of republicanism that implies it denies individuals the right to possess *anything* other than a shared use of public things, but it is certainly not the case that republican citizens defined each other primarily as individuals who possess and administer 'things' in the course of pursuing their own life plans and enjoyments. Machiavelli is inbetween the classical and modern age when it comes to conceiving the object of sovereign power within the principality. By this I mean the way in which the 'body politic' is still very much a body,⁹⁴ and less a complex of men and things. Though an 'art of government' is involved in both, and Machiavelli can be said to have contributed to the emergence of what James Harrington would call 'modern prudence' more than a century later, when talking about the *vivere politico* Machiavelli was still very much in the realm of the ancient republican 'arts of government'. The two cannot be reduced to each other (at least not yet). At the risk of oversimplification, in one

92 *Discourses*, 2. 2, p. 329.

93 *The Art of War*, I, 10, 12. See Fontana, 1992, p. 32-33, for a discussion of this in relation to Tacitus.

94 As Skinner notes, Machiavelli's use of the body metaphor is 'pervasive'. Skinner, 1984, p. 209.

instance (to be schematic, up to the early decades of the sixteenth century) sovereignty was exercised on a territory, and only secondly on the inhabitants in it. In the other instance (say, from the late sixteenth century onwards), what 'government' has to do with is not only territory but men in their relations and activities, and with the 'inventory' of that territory - wealth creation, resource development, the means of subsistence, and issues of climate, fertility, famine, and public health. In other words, Machiavelli is still some way from addressing himself to the problematics of 'population' in the way it would begun to be understood in the late seventeenth and mid-eighteenth centuries, and thus he still relies mainly on a vision of social order which has a compressed view of a private realm of enjoyments, separate from the organic structure of the political body.

The line between enjoying private goods within the context of the public good, and a corrupt privatization into the *particulare*, was drawn according to the nature of the current threat to the collective interests of the citizens. Civic virtue (or prudence) - the cognitive source of duties - thus took priority over private enjoyments whenever the future viability of the republic was threatened. Given what we know of Machiavelli's sense of the fragility of public institutions in the face of external and internal threat, the intransigence of human character, and the ravages of fortuna, this is not an inconsiderable task for the practice of civic virtue. At the very least, it implies that the possession of virtue, of *some* kind of account of the qualities necessary to live a good life, is a precondition for the maximization of liberty.⁹⁵

The republican personality was conceived in the realm of public action, within a set of given parameters (defined by cultural convention and law) within which one found one's place according to the knowledge of one's own nature, humour, and character, and to

95 Cf. Dunn, 1990, pp. 74-78. Also, see Pocock, 1975, pp. 316-7.

which one was led by education, habituation, and law.⁹⁶ We should not confuse the recognition of difference on the part of classical republican theory with the recognition of the uniqueness of each individual. One cultivated oneself in the sun, in the bright light of the public space, not under some private shade.⁹⁷ It seems strange then, at least here, to describe Machiavelli's concept of liberty as falling into either the negative or positive variant of modern characterizations of liberty. If there is a sense of 'freedom from' or 'freedom to', it is being free *from* the oppressiveness of a corrupt and greedy ruling class (or an ambitious and unruly *popolo*), *to* act in accordance with the personality we recognize as our 'own'; but only in its interaction with, and recognition from, our family, friends, patrons, and fellow citizens in the context of specific cultural and political forms.

But Skinner is making more than a point about the particulars of Machiavelli's concept of liberty (and the classical republican theory in general), he is arguing that in presenting the theory in the manner that he has (as an 'act of excavation')⁹⁸, he is able to provide a concept of liberty which transcends the apparent limitations of our conventional conceptual tools and can serve to remind us to think again in ways we thought we couldn't. It is, on his account, to unravel a modern paradox; how can it be rational, if we wish to ensure our own individual liberty, to assign the common good a priority over and above our individual desires and aspirations? The claim is rendered paradoxical by historical blinders put in place by the hegemony of a series of conceptual assumptions contemporary contractarian liberal theory has inherited from the seventeenth century, namely, the language and paramountcy of rights. The paradox is resolved, claims Skinner, in the way the *retrieval* of the classical republican case

96 See the wealth of detail and information in Trexler 1980; he shows how much Florentine 'civic equality' was essentially governed according to a complex, hierarchical, patronal network (which Machiavelli was, to a certain extent, reacting against in his late republican writings).

97 Skinner, 1990, p. 306, cf. p. 134.

98 Skinner, 1992, p. 223.

(submerged ever since Hobbes' infamous put down)⁹⁹ enables us to 'perceive some unfamiliar yet plausible connections between the ideals of justice, liberty, and the common good', and offers us a way of 'connecting these concepts' which though decidedly non-liberal in orientation, are not in the least 'anti-liberal in its values'.¹⁰⁰

The mechanics and goals of this methodological strategy have been outlined above in the introduction to part 1, so we are now in a position after examining the historical claims made on its behalf, to consider its fruit. Remember that the point of it all is to enlarge our present understanding of the concepts we employ in social and political argument and to overcome the 'unrecognized constraints' on our imaginations. The moral value of this is to provide a richer picking of conceptual possibilities from which we can begin to construct our own response to the present. In the case of our understanding of liberty, contemporary liberalism - and here Skinner means Rawls, Rawls' 'enthusiastic followers', Ronald Dworkin, and libertarians¹⁰¹ - is in danger of 'sweeping the public arena bare of any concepts save those of self-interest and individual rights'.¹⁰² Hence the need to

99 In Thomas Hobbes, *The Leviathan*, ed. C. B. Macpherson, Penguin, 1988, Chapter 21, p. 266-268.

100 Skinner, 1992, p. 217.

101 A rather imprecise list since libertarians hardly have much in common with Rawls or Dworkin, and are only 'liberals' as we currently understand it in the sense that they have more in common with nineteenth century laissez-faire liberalism. The most blatant disjuncture between the two camps lies in their understanding of the value of equality; the former consider it fundamental to contemporary liberalism, the latter do as well, but only in identifying precisely what is wrong with it. In the article where Skinner identifies these targets (1992, pp. 215, 222; compare Skinner, 1983, *passim*.) he begins by considering Rawls but ends by rounding on the libertarians. It is unclear whether (a) he considers them to be espousing relatively the same position but to different degrees, or (b) the last paragraphs of his article deals separately with the implications of the libertarian position and contemporary responses to it. The distinction is important because if he holds to (a), I think his argument is based on a rather one-sided reading of Rawls (how Skinner thinks the social demands of the difference principle, for example, square with Rawls' supposed assumption of a 'maximum degree of non-interference compatible with the minimum demands of social life', we are not told), and if it is (b) he is flogging a dead horse (at least in my view).

102 Skinner, 1992, p. 222. There is a certain tension here between Skinner's claim that contemporary liberalism is too concerned with self-interest (which I share) and his claim that Machiavelli's republican account of 'pure negative liberty' is relevant to us because it recognizes the importance of self-interest in human relations and incorporates it into its theory.

'engage with the limitations' of current liberal thinking on liberty (this is what Skinner is doing) by excavating classical republican theories of citizenship. Far from providing blueprints for the construction of our political culture ('we must learn to do our own thinking for ourselves'), they serve mainly as a 'warning' (or a 'lesson') that unless we prioritize our civic duties over individual rights, we will find our individual rights themselves undermined.¹⁰³ The contingency of arrangements deconstructed here is the assumption that liberty is always and only maintained by protecting ourselves from the constraints and interference of social duty, imposed by some overarching idea of the common good.¹⁰⁴

But is it only that a theory of rights must have a complementary structure of duties that Skinner wants to point out in making the connections he does between the two tradition's conceptions of liberty and the common good? He seems to want an alternative to the choice between an 'Aristotelian' assumption that a healthy public life must be founded on an objective idea of the good, and 'liberalism's' emphasis on the priority of personal liberty. The key surely lies in the nature of our understanding of the common good, and not simply in the way every system of equal rights presupposes a set of correlative duties, which most liberal theories do anyway.¹⁰⁵ Skinner is implying that by

103 Skinner, 1969 (1988), p. 66; 1991, p. 205; 1992, p. 223.

104 Skinner associates the priority of liberty over social duty with Rawls' own priority of liberty principle in his theory of justice. This is entirely plausible though he does not (in any of his articles comparing Machiavelli and Rawls) take into account the modifications Rawls makes to his principle in his 1982 Tanner Lectures, including the point that we are not to think that 'priority is assigned to liberty as such, as if the exercise of something called "liberty" has a preeminent value and is the main if not the sole end of political and social justice'. See John Rawls, 'The Basic Liberties and Their Priorities', in S.M. McMurrin, ed. *The Tanner Lectures on Human Values*, Vol. 3. University of Utah Press, Utah City, (pp. 5-6). I take up these issues in greater detail below.

105 Even Dworkin, who seems to be Skinner's real target here, notes that rights based theories rely on particular codes of conduct which prescribe duties. (though only instrumentally so as a means to protect the rights of others); 'The man at their center is the man who benefits from others' compliance, not the man who leads the life of virtue by complying himself'. See Ronald Dworkin, *Taking Rights Seriously*, Harvard University Press, Cambridge Mass., 1977, especially pp. 172 - 177 (p. 172). It is important to note that the context of Dworkin's discussion of rights is in relation to utilitarian political theory, which he saw as

positing an idea of the common good which includes the unconstrained personal liberty of individuals to pursue their own aspirations and goals without an attendant conception of 'interference' which rules out the need to perform a wide range of public duties, Machiavelli is able to connect personal liberty and the common good in a way modern liberalism cannot. In other words, he implies that given that any kind of monism is untenable, and that different conceptions of the good are incommensurable, a pluralist theory (one that respects the personal liberty of individuals to pursue their own aspirations and interests) legitimates a system of negative liberty which imposes duties to preserve the system as a whole (and thus the liberty of each). At this point, some modern theories invoke a principle of neutrality to evade the charge that they are simply replacing one theory of the good with another. Machiavelli, of course, does nothing of the sort. For him there is a common good - the maintenance of the *vivere politico* (which is the best way of life) and the glory of the republic - and everything else is subordinate to this. Nor does he speak about negative liberty as such, or at least so I want to argue, but instead, the freedom and recognition gained by acting within a realm determined by the inculcation of *virtu* via a proper education and the coercion of good laws in the context of one's *persona* or rank to which one is best suited according to one's nature. It is assumed by many liberal theorists and their interpreters that given the 'fact of pluralism', any substantive connections between liberty, the self, and the common good are disassembled, especially in its Rawlsian variant. Of course classical republican theory, at least as I have presented it here, does not do so. The danger however, is to think that as a result there is a conceptual chasm between classical republican theory and contemporary liberalism - at least with regard to liberty, agency, and the common good - when in fact, it could be

the dominant tradition in need of critical attention. As it has faded from the intellectual scene, it is interesting to note how Dworkin's attentions have increasingly turned towards discussions of 'community' and 'liberal foundations'.

argued, that both types of theories make a number of similar demands, though differing in all sorts of other ways (for example, as languages). I want to try and demonstrate some of these connections when I turn to an examination of liberty and self in Locke in the next chapter, and some contemporary liberal theorists later on.

Of course one of the great advantages of Skinner's work is to show the 'chasms' between our political languages and the past whilst at the same time insisting on their relevance. He wants to show how classical republican theory was able to connect 'purely negative' personal liberty with a rigorous system of public duties. I also want to point out the way in which classical republican theory maintained a connection between liberty, personality, and the common good which we find strange according to our liberal dispositions. We cannot afford to simply leave the opposition between 'republicanism' and 'liberalism' as it is, because in doing so we run the risk of obscuring the kind of objectification that is occurring in our contemporary world, in the way we interpret and institutionalize the relations between liberty, the self, and the common good. We are shaped by our free acts in a world exploded not only in its organizational complexity, but in our relation with 'things' mediated through the increasingly anonymous and fragmentary forces of international 'high-technology' capitalism.¹⁰⁶ There is a need to see the connections between liberty and self that goes beyond simply assuming (or hoping) that the relation is one of an autonomous pursuit of our chosen ends, or a rigid identification with some objective will. The architecture of classical republican theories provide a comparative advantage. It is the strangeness of a concept of liberty neither strictly negative or positive that is of interest here: an opportunity to re-think the relations all together.

¹⁰⁶ These new conditions are being identified and addressed increasingly by theorists outside the usual Marxist, structuralist, and post-structuralist genres. See in particular, J.G.A. Pocock, 'The Ideal of Citizenship Since Classical Times', *Queen's Quarterly*, 99, 1, Spring 1992, 33-55; and Dunn, 1990, chapters 4, 5, 11, 12. I address some of these claims in detail in part II of this thesis.

Chapter 4: Liberty and virtue

4.0 Introduction

It is perhaps not surprising that one consequence of the enormous scholarly attention paid to the political theory and history of classical republicanism has been the claim of its radical separateness from other traditions, especially that of natural law (*jus naturale*), or the 'discipline of civil law (*jus civile*)', as Samuel Pufendorf called it.¹ The rise of republicanism has been linked to challenging the supposed Lockean hegemony in the development of modern political theory, and particularly in the history of the founding of the United States and its attendant legitimating set of ideas, or ideology.² Secondly, and relatedly, it is linked to the methodological developments in the history of ideas (mentioned above in the Introduction to Part 1), with the emphasis shifting to the study of linguistic and practical conventions (or paradigms), and a rigorous approach to establishing, as closely as possible, the context and structure of political arguments. Two of the key theorists of this change have also been two of the most prominent 'republican revisionists' - Professors Pocock and Skinner. Applying their methodological principles to this period in general, and above all, to the political theory of Machiavelli (and its transmission and development in Northern Europe and the United States), they have excavated and made available a vivid language of classical republican theory. A third reason is connected to the peculiarly American context of this revisionism, where 'the return' of civic republicanism is linked to a specific perception of the politics and culture of late modern American society: a valueless, amoral population bound together by little more than self-interest and the

1 Perhaps the clearest expression of this difference is found in Pocock's "Virtues, rights, manners" in *Virtue, Commerce, History*, Cambridge, Cambridge University Press, 1985, 37-50, especially p. 39: 'the two vocabularies (civic humanist and jurisprudential) were outstandingly discontinuous...because they premise different values, encounter different problems, and employ different strategies of speech and argument'.

2 In particular, attacking the thesis of Louis Hartz, *The Liberal Tradition in America: An Interpretation of American Political Thought since the Revolution*, New York, Harcourt Brace, 1955.

desire to be left alone, living on an impoverished understanding of the public good. This perception is not limited to the United States, of course, but a number of key studies have investigated the nature of the American revolution with an eye towards identifying nutritive lineages from which the heirs of that revolution could draw - whether they be Americans, British, Canadians, whatever - to revitalize contemporary political argument and practices.³ Finally, it is connected to a critique of specific aspects of contemporary normative political theory, and in particular, that stemming from its Rawlsian and 'post-Rawlsian' variants. Here, theorists see civic republicanism as either an alternative tradition and framework to neo-Kantian liberalism (or at least a supplement to it), and as a buttress to communitarian arguments against the (supposed) atomism and proceduralism of Rawlsian liberalism. The tradition provides them with a viable vision: a vision constitutive of ideologies and practices from the past.⁴

3 Pocock's *The Machiavellian Moment* (1975) could be said to be directly aimed at the American context, though he never explicitly says so. But see the new introduction to the reissue of *Politics, Language and Time*, University of Chicago, 1989. It has served as a key point of reference for a number of American theorists though, see Bernard Bailyn, *The Ideological Origins of the American Revolution*, Cambridge M.A., Harvard University Press, 1967; "Some Second Thoughts on Virtue and the Course of Revolutionary Thinking", in *Conceptual Change and the Constitution*, ed. Terence Ball and J.G.A. Pocock, Lawrence, University of Kansas Press, 1988; Caroline Robbins, *The Eighteenth Century Commonwealthmen: Studies in the Transmission, Development and Circumstance of English Liberal Thought from the Restoration of Charles II to the War with the Thirteen Colonies*, Cambridge MA, Harvard University Press, 1959; Gordon Wood, *The Creation of the American Republic, 1776-1787*, New York, Norton, 1972. Also Robert Shalhope, "Toward a Republican Synthesis: The Emergence of an Understanding of Republicanism in American Historiography", *William and Mary Quarterly*, 3rd Ser., 29, 1972, 49-80; "Republicanism and Early American Historiography", *William and Mary Quarterly*, 3rd Ser., 39, 1982, 334-56. For a consideration of the relationship between gender and civic republican virtues, see Pitkin, 1984, and Ruth H. Bloch, "The Gendered Meanings of Virtue in Revolutionary America", *Signs: Journal of Women in Culture and Society*, 13, 1987, 37-58.]. Though used by left-leaning critics, it is certainly not exclusively so. Aside from Pocock, see Senator Orrin Hatch, "Civic Virtue: Wellspring of Liberty, *National Forum*, 64, 1984, 34-38., as well as the civic republican overtones of public service and civic responsibility in the work of Lawrence Mead and Charles Murray. Of course a number of the most influential scholars working in this tradition are not American - Pocock himself, Skinner, Charles Taylor, Maurizio Viroli, etc.

4 The connection between communitarianism and civic republicanism is made explicit in the work of Michael Sandel and Charles Taylor. See Sandel, 'Morality and the Liberal Ideal', *The New Republic*, May 7 1984, pp. 15-17; 'The State and the Soul', *The New Republic*, June 5 1985, pp. 37-41; 'Democrats and Community', *The New Republic*, February 22 1988, pp. 20-3; 'The Procedural Republic and the Unencumbered Self', *Political Theory*, 12, 1, 1984, 81

These are all plausible reasons (and the list is not meant to be exhaustive) for pursuing civic republicanism in *opposition* to liberalism (or a history of liberalism), but there might also be reasons for seeing some connections where previously we only saw differences. In the two chapters that follow I want to relate the classical republican framework sketched in chapters 1-3 to its 'rival' tradition of natural law, especially as it manifested itself in the seventeenth century, and particularly in the work of John Locke. However instead of setting out to demarcate a strict boundary between the two traditions and languages, I want to concentrate on certain connections between them, especially with regard to the structure of the relation between the concepts of liberty and self. I do not want to underestimate their numerous substantial differences, and I am not proposing to argue that we wholly collapse any distinction between them in an act of conceptual alchemy. Rather, in concentrating on the concepts of liberty and self and their relation to each other, I want to stand back and look to see if there are not similarities or at least structural resemblances where it is claimed that one tradition is doing something the other is not, or more strongly, cannot. In general, this will require making an argument that certain claims of civic republican theorists

96; and [1990]. For Taylor, see *Sources of the Self, The Making of the Modern Identity*, Cambridge University Press, 1989; 'Cross-Purposes: The Liberal - Communitarian Debate', in Nancy Rosenblum ed. *Liberalism and the Moral Life*, Cambridge Mass., Harvard University Press, 1989; and 'Alternative Futures', in A. Cairns and C. Williams eds., *Constitutionalism, Citizenship, and Society*, Toronto, University of Toronto Press, 1985 (where Taylor distinguishes between communitarianism and civic republicanism). See also Cass Sunstein, 'Beyond the Republican Revival', *The Yale Law Journal*, 97, 8, July 1988, pp. 1539-1590 (part of a symposium on republicanism; this article is one of the best contemporary applications of republican principles to liberal political theory and jurisprudence and I am greatly indebted to it). Cf. Philip Petit, 'The Freedom of the City: A Republican Idea', in Alan Hamlin and Philip Petit eds., *The Good Polity: Normative Analysis of the State*, Oxford, Basil Blackwell, 1989, pp. 141-168; and Philip Petit and John Braithwaite, *Not Just Deserts: A Republican Theory of Criminal Justice*, Oxford, Clarendon Press, 1990, pp. 54-85. Similar views have been put forward by a wide range of legal scholars connected to 'Critical Legal Studies', see for example, Mark Tushnet, 'Following the Rules Laid Down: A Critique of Interpretivism and Neutral Principles', *Harvard Law Review*, 96, 1983 (but see Don Herzog's nifty debunking of CLS' crude interpretation of liberalism - 'As Many as Six Things Before Breakfast', *California Law Review*, 75, 2, 1987, 609-630). See also the discussion in Ian Shapiro, *Political Criticism*, Berkeley, University of California Press, 1990, especially part 3. I will be returning to the issue of the relation between liberal political theory and civic republicanism and communitarianism below.

(and their exponents) against liberalism are rendered less potent, or at least transformed, given a particular interpretation of the history of 'liberalism', and the grounds of particular theories and concepts therein.⁵

The other point I want to explore over the next two chapters has to do with what I see as an inherent tension within many liberal theories, and certainly in the texts and arguments of those theorists emerging out of the natural law and social contract traditions of the seventeenth and eighteenth centuries. This is, the relationship between an assumption of an individual's 'natural' liberty and autonomy upon which the act of contract is founded (and thus the legitimacy and scope of government), and the very basis of that autonomy itself being a product of a particular kind of regime of government; i.e. autonomy itself as an 'artefact' of government. If classical republican theory assumed a particularly *tight* relation between the moral personality and a form of government embodied in the promotion of the common good through virtuous conduct, then early proto-liberalism, far from completely disassembling the connection, changed the contours and inserted new relations. This is evident from the way a number of natural law theorists concerned themselves with the very nature of the autonomy of the individual - the internal obstacles they faced as a result of deficiencies of 'natural design', character, training and habit, or externally by the insecurity engendered by social disorder, war, and poverty. Thus we find highly theoretical discussions concurrent with, or followed by, extensive discussions on the nature of

5 Pocock has invited such a reading in identifying that it might be more useful to adopt a pluralist picture of the formation of modern political thought - hence the need to destroy the 'myth of Locke and the obsession with liberalism' ('The myth of Locke and the obsession with liberalism', in J.G.A. Pocock and Richard Ashcraft eds., *John Locke*, Los Angeles, William Andrews Clark Memorial Library, University of California, 1980, 1-24), and secondly, by leaving open the possibility that these two 'rival' languages have in fact, in various contexts, been used interchangeably by writers in both traditions. (1980, p. 12). James Tully has addressed Pocock's contribution to our late modern understanding of Locke in his excellent "Placing the Two Treatises", in *Political Discourse in Early Modern Britain: Essays in Honour of John Pocock*, ed. N. Philipson, and Quentin Skinner, Cambridge, Cambridge University Press, 1993. I am very grateful to Professor Tully for providing me with an advance copy of his article in the course of writing this chapter.

the self and human conduct, sometimes along with a series of theoretical and practical suggestions for the inculcation of a particular set of dispositions.

It is also important to try and understand the nature of 'duty' within this tradition in comparison with classical republican theory, since it is often argued - as we saw above - that liberalism prioritizes rights over duties to such an extent as to threaten the very plausibility of the concept. Duty is a key mediating concept between liberty and self, since it sets the limits of possible actions and identifies the nature of certain purposive ones, for example, in the name of some common or public good. Is liberalism's understanding of duty radically different from that of classical republican theory? One must be careful here to specify particular historical arguments and avoid painting traditions as complex as those of 'natural jurisprudence' and liberalism with too wide a brush - hence my concentration on Locke, and just a few other relevant theorists.

Within this overall context, I am interested in delineating the possibility of their being a 'civic liberalism' with attendant 'liberal virtues' and 'liberal conduct'. Is this outside of what we currently understand to be constitutive of our modern understanding of liberalism and its history, or has it been submerged in the attempt to distinguish two radically different traditions utterly critical of each other and thus ontologically incompatible? Is there a relationship between these two traditions beyond the fact that they are constantly opposed to each other? What is Locke's relationship with the values, doctrines, and texts of classical republicanism? In chapter five I will concentrate more on the other side of the tension I have mentioned above, and look at Locke's concern for establishing a proper 'relation to self', and the epistemological, psychological, and practical grounds for the establishment of an 'art of governing men right in society'.

4.1 Virtuous structures: Rome, Athens, or Jerusalem?

I want to be clear about setting the limits to my consideration of these

aspects of civic republicanism and liberalism by attempting to provide a sketch of seventeenth century English republican theory, distinct from its other 'rival' theories and languages.

The most systematic exploration of republican ideas took place in England in the course of three general political crises; the Interregnum 1649-60 where writers struggled to provide an alternative to kingship following the execution of Charles I, the tensions of 1675-83 provoked by a threat of absolute monarchy and Catholic succession, and finally the post 1688-89 constitutional discussions concerning the expansion of executive power, corruption, and the persistence of a standing army in peacetime.⁶ In each case, sophisticated arguments were put forward which were invoked, added to, and developed from a body of republican thought based on the ancient commonwealth of Rome (and to a lesser extent Sparta), and as reworked into the classical vision of the republican theories of Renaissance Italy in both of its 'new' and 'old' humanist variants. This background was not only limited to self-identified republicans. As Professor Todd has demonstrated, a considerable part of the 'Puritan mind' and social ideology was informed by a classical, albeit Christian, humanist background, providing a bridge of sorts, a basic *mentalite*, between two seemingly different world pictures. At a very basic level, both were fighting against the perceived growth of conservatism and authoritarianism, and both believed in the possibility of social and moral reform, though it was here that the real fault lines began to appear - for example between the pessimism, millenarianism, and elite exclusivity of high puritanism, and the mildly optimistic beliefs concerning man's reason,

6 See Blair Worden, "English Republicanism", in *The Cambridge History of Political Thought 1450-1700*, ed. J.H. Burns with the assistance of Mark Goldie, Cambridge University Press, 1991, 443-475, 443-4; "Classical Republicanism and the Puritan Revolution", *History and Imagination: Essays in honour of H. R. Trevor-Roper*, ed. Hugh Lloyd-Jones, Valerie Pearl, Blair Worden, Holmes and Meier Press, New York, 1980, 182-200 for a discussion of the first of these phases. Cf. Richard Tuck, *Philosophy and Government: 1572-1651*, Cambridge University Press, 1993, pp. 221-53 and chapter 6 passim. Also, J.A.I. Champion, *The Pillars of Priestcraft Shaken: The Church of England and its Enemies, 1660-1730*, Cambridge University Press, 1992.

sociability, and 'natural' liberty of the republicans.⁷ Republicans were also passionately critical of 'priestcraft' (a phrase coined by James Harrington⁸) for all sorts of reasons; they blamed them for Europe's wars of religion, for the erosion of civic virtue, thought them responsible (in part) for the development of Tory authoritarian political theory, and generally criticized them for meddling in political affairs to the detriment of good government. And they had little time for the rigors of Calvinist doctrine either, showing general affinities with both Arminian and Socinian critiques of Calvinism.⁹

Yet republicans were not wholly opposed to the idea of religion, just the way in which it was taught and used by their contemporaries, similar to the way Machiavelli was harshly critical of the 'wrong kind' of religion he saw responsible for weakening the republican fibre of the Italian city states.¹⁰ Indeed there is much in the work of Harrington for example, that portrays political activity as a kind of religious activity; the commonwealth 'a minister of God upon earth', a monarchy where

7 Worden 1991, p. 471-75; 1980, p. 193-5, *passim*. Todd 1987, pp. 1-17, 53-95. This tension is perhaps best exemplified by Henry Nevile, great friend of James Harrington and author of the classic Machiavellian treatise *Plato Redivivus*, who was accused of 'atheism' (in 1659) in Parliament when he was reported to have said - in the accompaniment of three clergymen - that 'he was more affected by reading Cicero than the Bible'.

8 As Champion (1992) has discovered.

9 For example, Pocock argues that there is a Socinian streak in Harrington, see Pocock 1977, p. 109. For a general discussion and more references, see Worden 1981, pp. 193-5. Arminianism is a complex designation in the context of mid seventeenth century religious debates, and was often used pejoratively, especially in the early 1640's. Arminian theology sought to reconcile the ideas of God's providence and freedom of the will, and to transform 'the elect' into those who used their restored freedom of the will (*pace* the Atonement) to obey God's will and 'persist in righteousness'. See Warren L. Chernaik, 'Christian liberty in Marvell and Milton', in *Freedom and the English Revolution; Essays in History and Literature*, R.C. Richardson, G.M. Ridden, eds., Manchester University Press, 1986, pp. 70-1.

10 Champion 1992 *passim* is a brilliant attempt at proving this; see in particular pp. 171-3 where he sets out his case against the 'secularist analysis' of English republicanism: 'The emphasis upon the political is, I suspect, a legacy of Victorian scholarship. It is easy for the "modern" mind to grasp the "realities", the "public" nature of politics with its creeds, programmes, dogma and mundane character. "Religion" for the rational mind, has become marginalized into the internal tabernacle of private belief, without the implications of a public profile'. (see n.5, p. 172 also) But Cf. Tuck 1993 (pp. 221-3), who claims that even by the 1640's and 1650's, English revolutionaries and republicans were using all the key words of the new humanism - such as 'interest' and 'necessity' - in very much a 'modern' way. And see also Shelly Burt, *Virtue Transformed: Political Argument in England 1688-1790*, Cambridge University Press, 1992, pp. 39-86, who reinstates a distinction between a 'religious politics of virtue' and a 'republican politics of virtue'.

'God is King, in as much as reason, his dictate her sovereign power'.¹¹

In part, the appeal to a theocracy was one way of attacking the independent position of the clergy, since all citizens are equally free under God in his kingdom. This was to attack priestcraft's monopoly of the mediation between god and mankind, which rested more on ideological and economic power, according to Harrington, than it did on divine or scriptural authority. Though not going as far as the Puritans in believing in the transparency of the meaning of scripture to everyone (Harrington thought a proper analysis of scripture was necessarily philological one and thus required the right kind of university education), a spiritual republic in principle was a priesthood of all believers, where the keys were left to all.¹² But there is also a stronger sense, especially in *Oceana* (1656), that the restored republic is 'both Israel and Rome *redivivus*...Christ's kingdom returned', an 'immortal commonwealth'.¹³ The point, following Tertullian, was to build *both* Rome (or Athens) and Jerusalem.¹⁴ Generally, in keeping with Machiavelli, religion remained the business of the state, where national religion and private conscience were not exclusive spheres, but stood together. The reformed civil state was the last bastion of uncorrupt religion, and though a certain plurality of sects and accompanying consciences could be allowed, a highly centralized apparatus of civil religion was needed to temper anarchic private

11 J.G.A. Pocock, *The political works of James Harrington*, Cambridge University Press, 1977, pp. 323, 338; see also pp. 329-30, 332-3, 572, 574.

12 On the issue of ordination and scriptural interpretation see Harrington 1977, 217-18, 251, 306-7 (*Oceana*), 679 (*The Art of Lawgiving*). See Mark Goldie, 'The civil religion of James Harrington', in Anthony Pagden ed., *The Languages of Political Theory in Early Modern Europe*, Cambridge University Press, 1987, pp. 197-222.

13 This aspect of Harrington is discussed in Pocock 1975, chapter XI passim, and especially at pp. 396-400, 399. But note that Pocock immediately qualifies this by saying that 'only a few of the types and shadows attending the serene edifice of *Oceana* are millennial (p. 399). See also Worden 1991, p. 472. Generally on millenarian thought see Firth, *The Apocalyptic Tradition in Reformation Britain 1530-1645*, Oxford University Press, Oxford, 1979. But Cf. Champion 1992, pp. 197-8, 201-208, who rejects this millenarianist account.

14 Harrington 1977, p. 161, 421, 545. On the relationship between seventeenth century republicanism and reforming religion, and especially radical puritanism, see Goldie 1987, especially at pp. 203-209 on Harrington's "breathtaking" syncretism of the Graeco-Roman *polis* and the Hebraic-Christian apocalyptic. I am deeply indebted to this fine article.

'enthusiasms' and the corrupt self-interest of the clergy; 'That there may be liberty of conscience, there must be a national religion'.¹⁵ For Harrington the 'popish clergy' were deeply ingratiated into the authoritarian structures of the monarchy. Through their 'lands' and positions as great counsellors of kings, they had offered the 'divine right of kings' as a *quid pro quo* for a defence of their economic and political power, which was the 'secret of that antipathy which is between a clergy and a popular government, and of that sympathy which is between the mitre and the crown'.¹⁶ This deep distrust of the structures of papal religion and the machinations of the clergy, along with a desire to get the relationship between religion and the commonwealth *right*, was also present, of course, in Hobbes, and to a different extent, in Locke.

There was a strong equation between the corrupt state of current monarchies and the corrupt state of the contemporary church, and between the restoration of a true commonwealth with the return of a truly Christian republic. Harrington constantly makes this analogy, perhaps most dramatically when he notes that just when Tiberius was murdering the (Ciceronian) liberty of Rome, Pilate was murdering Christ.¹⁷ Thus *Oceana*, the restoration of Athens and Jerusalem, was also the restoration of liberty, delivered from the *imperium* of the monarchy, nobility, and bishops. For Harrington a free republic was necessarily Christian and its civil liberty identical to Christian liberty;

15 Harrington 1977, p. 767 (Aphorisms Political). For the details of the proposed national church of *Oceana*, see Harrington 1977, pp. 214-26, and especial p. 251 where Harrington outlines the duties of the 'council of religion', the 'arbiter' of the commonwealth in cases of conscience, and having in its care 'the national religion and the protection of the liberty of conscience'.

16 Harrington 1977, p. 563 (*The Prerogative of Popular Government*, Book II). On the harmonization of national religion and private conscience, pp. 185, 204, 251, 681. Goldie 1987, pp. 207, 219-20. See also Jonathan Scott, 'England's troubles: exhuming the popish plot', in Tim Harris, Paul Seaward, Mark Goldie eds., *The politics of religion in restoration England*, Oxford, 1990, 107-31; and 'The rapture of motion: James Harrington's republicanism', in Nicholas Phillipson and Quentin Skinner (eds.) *Political Discourse in Early Modern Britain*, Cambridge University Press, 1993.

17 Harrington 1977, p. 186: 'Nor was the liberty of conscience infringed by this government till the civil liberty of the same was lost, as under Herod, Pilate, and Tiberius, a three-piled tyranny'. Goldie 1987, pp. 210-11.

the freedom of the *polis* was the freedom promised by the Gospel, and as Goldie writes, 'Pauline Christianity (taught) the reconstruction of the the Athenian polity'.¹⁸ But it also presents two potentially conflicting accounts of freedom; the perfect freedom of service (to God), free from oppressive and 'inappropriate' authorities and free to respond to God's providence and to labour in his service, and a more pluralistic and individual kind of freedom, a liberation 'to be' wholly free from any warping authority. This is a crucial break point between English republicanism and the discourse of radical puritan theorists, though we must resist the urge to paint too stark a difference. It is important to recognize that very few writers in the seventeenth century spoke of freedom in the second sense, but there were various degrees of emphasis with regard to the first which opened the way for the eventual propagation of the second. Taken in the first way, liberty and authority are not polar opposites but instead related to the question of the reconstitution of authority in order that the 'appropriate' and 'well directed' authorities had the liberty to act.

To be chronologically schematic, we might say that this was the case for the language of liberty in the 1640's and 1650's. In the pamphlets, treatises, and 'discourses' of this period we do find shared assumptions concerning civil and religious freedom (this is not to say these two freedoms are equivalent or mutually exchangeable), even amongst the complex doctrinal and scriptural squabbles of the various sects. Firstly, to talk of civil liberty was to talk of living under known rules, and to be free from the arbitrary will of men or authority, in short, to live under law. This was to set the stage for making a distinction between liberty and 'license', though of course, there were no universally

18 Harrington 1977, p. 332 (*Oceana*): "Now if you add unto the propogation of civil liberty, what is so natural unto this commonwealth that it cannot be omitted, the propogation of the liberty of conscience, this empire, this patronage of the world, is the kingdom of Christ. For as the kindgom of God the Father was a commonwealth, so shall be the kingdom of God the Son'. See also pp.186-7, 764-7 (*Aphorisms Political*), especially XXIII, XXIV, XXXVII, XLV. Goldie 1987, pp. 209, 211.

agreed upon characteristics defining the former against the latter.¹⁹ Secondly, to talk of religious liberty inevitably meant to talk of the inherent sinfulness of man, and not to talk about self management or personal autonomy. As Issac Pennington Jr. wrote, 'Man is so selfish, blind and corrupt to his very root...he cannot be just either to his neighbour or himself' and thus he 'cannot be free in himself, nor free from himself (while self is in him, it will make him selfish) and while it is so, others under or within his reach cannot be free'.²⁰ William Penn claimed that 'the government of conscience belongs to God, and cannot be delegated to another', or even to oneself.²¹ The main arguments for liberty of conscience, as Professor Davis has ably shown, related more to man's incapacity for self-government than to claims for self management; 'every man', warned Richard Vines in 1644, 'made now a shibboleth of his own private conscience to the end that liberty of all sorts was promised including liberty of sensuall lusts, and fleshly looseness'.²² As the tone of the quote implies (and there are many more one could cite)²³, private conscience and personal liberty were closely associated with the depravity of the 'fleshy will', and the psychological and spiritual confusion of 'license'. The point was to submit oneself to God not 'Self', and to play a disciplined role in the 'economy of God', with (Godly) discipline as the concomitant

19 John Milton provides a good example of this: 'this is got by casting pearl to hogs;
That bawl for freedom in their senseless mood,
And still revolt when truth would set them
free.
Licence they mean when they cry liberty;'

Sonnet XII, J. Carey and A. Fowler eds. *The Poems of John Milton*, London, 1968. See also Warren L. Chernaik, 'Christian liberty in Marvell and Milton', and Roger Howell Jr., 'Cromwell and English liberty' in Richardson and Riddle 1986, pp. 45-71.

20 Issac Pennington Jr., *Divine Essays*, 1654, pp. 22, 63-5; *The fundamental right, safety and liberty of the people*, 1651, A3. In J. C. Davis, 'Religion and the Struggle for Freedom in the English Revolution', *Historical Journal*, 35, 3, 507-30, at p. 514-15.

21 William Penn, *The great case of liberty of conscience once more briefly debated and defended*, 1671.

22 Richard Vines, *The impostures of seducing teachers discovered*, 1644. Davis 1992, p. 515, 516. Haller 1955, p. 125. As Davis puts it; 'Conscience is the fax machine which, well serviced, keeps us in the closest communication with the Divine Will' (p. 519).

23 See for example those in Davis 1992 and Lamont 1986.

condition of 'liberty' - the unimpeded submission to 'His' will.²⁴ It is claimed by a number of historians that this was so even for the Levellers, who though less prone to millennial speculation and absorption in providential observation, still saw liberty of conscience as the liberty not to submit to any other authority but God.²⁵ At root this was also linked to a concern for social regulation and the maintenance of order, something Catholics, Anglicans, and Puritans all agreed was necessary whatever their disagreements about what the means and content of that regulation were. Generally, the difference in approach to methodologies of social control lay on the one hand between a belief in the reformation of behaviour as dictated by the individual conscience, and on the other, an unquestioning obedience

24 The concept of the 'economy of God' is found in Jeremy Taylor, *The liberty of prophesying*, 1647. William Lamont has been one of the key historians of the role of discipline in puritan theology in the seventeenth century, as well as his 'Pamphleteering' (1986, especially pp. 76-80), see *Godly rule: politics and religion 1603-1660*, London, 1969, and his commentary on C.H. George in *Past and Present*, XLIV, 1969, 133-46. Puritan social theory is a vast topic; see classically Christopher Hill, *Puritanism and Revolution*, 1972; and *The Intellectual Origins of the English Revolution*, Oxford, 1965. Cf. with Margo Todd, *Christian Humanism and the Puritan Social Order*, Cambridge University Press, 1987.

25 See for example John Lilburne, (*Strength out of weakness*, 1649, pp. 21-2) where he says that 'no power on earth is absolute but God alone', and that it is a 'obnoxious Tyranny, to be resisted by all' when a power or magistracy degenerates from the power dependent on him and 'betakes it selfe to its crooked and innovating will'. Also, in his *An Impeachment of High Treason against Oliver Cromwell* (1649), where he declares that 'The great end wherefore God sent man into the world was that he should do good in his generation, and thereby glorify God in his generation' [in Haller and Davies eds., *The Leveller Tracts 1647-53*, New York, 1944, pp. 405-7] I am glossing an enormously complex and difficult issue here. See Davis 1992, pp. 526-29; also his "The levellers and Christianity", in B.S. Manning (ed.), *Politics, religion, and the civil War*, London, 1973. Also Brian Manning, "The Levellers and religion", in J.F. McGregor, B. Reay eds., *Radical religion in the English Revolution*, Oxford, 1984. Lamont 1986, pp. 85-89, does see somewhat of a break occurring at 1649, with 'two different world views in collision', and the gradual emergence in the 1650's of what C.H. George called 'humanistic and secular perceptions' (George 1968). Also the "Introduction" by Richardson and Ridden 1986, who argued that the Levellers ('Arminians of the Left') were able to harmonise their belief in God's grace, with their secular belief in the universal natural rights of man, by conceiving of grace as 'freely available' (pp. 10-12). For a different view which argues that the Levellers were 'moderns' in important ways, and whose ideas were 'democratic', 'strikingly secular', and marked 'the birth of modern political theory', see David Wootton, 'The Levellers', in John Dunn ed., *Democracy: The Unfinished Journey 508 BC to 1993 AD*, Oxford University Press, 1992, 71-89, especially pp. 76-81; also, his 'Leveller Democracy and the Puritan Revolution', in J.H. Burns ed. (with the assistance of Mark Goldie), *The Cambridge History of Political Thought 1450-1700*, Cambridge University Press, 412-42. Cf. the modern emphasis in Tuck 1993, pp. 240-251. Of course, even the Levellers saw the need for individual freedom to be curtailed by the civil power in the public interest, and weren't anarchists in the least, hence the more radical Diggers insisting that they were 'true' Levellers.

to constituted authority. As we saw above (in chapter 3), it was the social criticism and 'right conduct' of christian humanist writings that laid the foundation for many of the protestant reformers of the seventeenth century. Their emphasis upon reform 'from the ground up', and the inculcation of virtue as a means of grounding and preserving the godly commonwealth corresponded to the religious accountability of the protestant 'saint'.²⁶

One of the most important texts in the development of a distinctly protestant casuistry was William Perkins' *A Discourse of Conscience* (1596), which, along with the rest of Perkins' works, became an influential part of the education of young Puritans at university (especially at Cambridge and the Inns of Court), and in the sermons of leading preachers, for most of the seventeenth century.²⁷ Perkins (a Calvinist) defines conscience as being 'of a divine nature...placed by God in the midst between him and man':

we learn that God doth watch over all men by a special providence. The master of a prison is known by this to have care over his prisoners, if he sends keepers with them to watch them and to bring them home again in time convenient (-?) and so God's care to man is manifest in this, that when he created man and placed him in the world he gave him conscience to be his keeper to follow him always at the heels and to dog him (as we say) and to pry into his actions, and to bear witness of them all.²⁸

The only power capable of binding conscience was god's - 'inferior authority cannot bind the superior' - any other was a 'popish opinion'. This served to undermine not only the obvious sense of medieval hierarchy and 'great chain of being', but the jurisdiction of protestant hierarchy as well, who were replaced in their 'judgement-seat' by the 'tribunal seat' of conscience, 'the highest judge that is or can be under God'.²⁹ Thus, social reform was an intensely individualistic affair, in

26 Todd 1987, p. 176.

27 William Perkins, *A Discourse of Conscience: wherein is set down the nature, properties, and differences (?) thereof: as also the way to get and keep good conscience*, 1596, Cambridge, John Legate Printer. See also William Perkins, *Workes*, Volume I, London, 1616. William Haller, *The Rise of Puritanism*, New York, 1938. Christopher Hill, *The Century of Revolution 1603-1714*, London, Sphere Books, 1969, pp. 78-79; *Puritanism and Revolution*, London, 1958, pp. 235-7; *Society and Puritanism in Pre-Revolutionary England*, Panther, 1969, *passim* (but particularly pp. 136, 304-5, 368-9). Todd 1987, chapter 6 *passim*.

28 Perkins 1596, p. 8 (Spelling modernized).

29 Perkins 1616, I p. 528-30; 1596, p. 51. Hill 1964, p. 304. Todd 1987, pp. 176-7.

the sense that the work of reform began with the conscience and the need to reform one's conduct in light of a direct relationship with god. However much this took place within the individual though, it was directed outwards towards the carrying out of god's will for the benefit of the community. Here is another important aspect of Perkins' writings, that is, his discussion of the concept of 'calling', particularly in his *A Treatise of the Vocations, or Callings of Men*..³⁰ A calling was a 'certain kind of life' ordained and imposed on man by God, 'for the common good'. Men had to 'employ themselves in service for the Church and commonwealth', their every action geared to the edification of a godly commonwealth. The only distinction that mattered when it came to the type of work one did, whether 'the wipings of shoes and such like', was that one did it 'renewed in spirit and born again in in Christ's flesh', so that 'however gross they appear outwardly, yet are they sanctified'.³¹ Again, the emphasis upon self-reform is similar to what we find in Christian humanist writings of the early decades of the sixteenth century, including an exhortation to 'examine thyself', and to arrange one's life and actions, however (seemingly) unimportant and minute, to harmonize with the will of god and his sanctified community. As Samuel Ward wrote, conscience was 'God's lieutenant, and under him the principal commander and chief controller of man's life'.³² Professor Todd (and others) have shown that this was a conscience aware of its duties to its god, its calling, its family and its neighbours, in short, to the viability of the social order as a whole. Hence the Puritans' 'endless tracts, treatises

30 In *Workes* 1616, Volume I.

31 See George and George p. 128, 139. Perkins 1616, vol I, pp. 758, 773. Todd 1987, p. 194, n. 53 for references to other similar points made by William Ames, *Conscience With the Power and Cases Thereof*, 1639; Richard Baxter, *Practical Works*, Volume I. See John Dunn, *The Political Thought of John Locke; A Historical Account of the Argument of the Two Treatises of Government*, Cambridge, Cambridge University Press, 1969, chapter 18 *et passim*, for a discussion of the concept of the puritan 'calling' and Locke's "chilling" version of it. See also Charles Taylor, *Sources of the Self: The Making of the Modern Identity*, Cambridge, Cambridge University Press, 1989, chapter 13 *et passim*.

32 Samuel Ward, *A Balme from Gilead to Recover Conscience*, London, 1612, pp. 17-18. See Todd 1987, p. 201.

and sermons on family government, education, recreation, vocation, economic behaviour, poverty, drunkenness, idleness etc...aimed precisely at the goal of a well ordered commonwealth'.³³ The connection between rigorous personal discipline and constructive social reorganization is an important theme running from the old and new humanism of the sixteenth century throughout the seventeenth century up to Locke, and was linked to an appreciation and revival of classical stoicism and an intensification of concern for the care of the self.

But is this Puritan social theory, especially in the millenarianist context of the Interregnum, conceptually compatible with the classical republican language and values I have been discussing above? Might the closeness of the two languages, both in terms of shared influences (classical and humanist)³⁴, and political concern (to reconstitute the polity), be one way of showing the complex interplay between traditions that we miss when we separate them as analytically and conceptually distinct? As much as it seems that in Harrington, for example, the moment of republican recreation was either a 'neo-pagan marvel' or a work of 'apocalyptic grace which acted in history', there

33 Todd 1987, p. 202. See also Paul A. Fideler, 'Poverty, Policy, and Providence: The Tudors and the poor', in Paul A. Fideler and T.F. Mayer eds., *Political Thought and the Tudor Commonwealth: Deep Structure, discourse, and disguise*, London, Routledge, 1992, pp. 212-13. Micheal Walzer, *The Revolution of the Saints*, New York, 1972, (see for example, p. 213).

34 Humanism was pervasive in college curriculums at both puritan and non-puritan colleges of Oxford and Cambridge throughout the civil war and Interregnum. Professor Todd's study (1987, chapter 3 *et passim*) of library listings, commonplace books, and notebooks of puritan as well as Anglican students of the 1640's and 1650's, shows the persistence of Greek and Roman classics (especially Cicero and particularly his *De Officiis*, Seneca, Xenophon, Aristotle, among the most popular), as well as sixteenth century humanists such as Erasmus, More, and Vives. General publishing trends in the period also show this. Erasmus' *Adages*, *Enchiridion*, and various versions of his *Colloquies*, along with works by Vives and More, were all very popular and published in multiple editions. This broadness of learning survived both conservative challenges (defenders of traditional scholastic techniques) as well as the desire of some radical reformers to narrow the study of 'humane letters' considerably.

The relationship between seventeenth century protestant political theory and the classical tradition is crucial to understand, which often it isn't, since it is assumed puritan theorists are doing something entirely new (from the end of the sixteenth century onwards), and thus to be distant from Greco-Roman theory in a way the classical republicans were not. The work of Pocock, Oestreich, Skinner, Tuck, Goldie, and especially Todd has begun to change this perception, and Worden 1980 is seminal in this regard.

are important differences which need to be brought out, and in so doing, limit any comparison of 'classical republican' and Interregnum puritan languages.³⁵

Before continuing it is important to try and indicate the general character of republican theory beginning to emerge in the early and mid - seventeenth century. 'Modern' republicanism, as distinct from a more pure 'classical republicanism', emerged out of both the old and new humanism of the sixteenth century, that is, an attempt to accomodate at least *some* of the values and themes of the earlier republican humanism which had been swamped by the rise of 'reason of state'. However both variants displayed the two fundamental characteristics of the new form of political argument; the prevalency of the language of *interest* (public and private) and a general sympathy for a balanced aristocratic constitutionalism.³⁶ Whereas the language of interest and necessity had been used in Europe to defend autocratic and absolutist regimes (and to a certain extent, continued to be; Charles I used it to argue his case with Parliament), 'modern' republicans in the early and mid-seventeenth century (especially in the United Provinces and England) turned it against princes (or entrenched constitutional orders) when they insisted on the public or common interests of 'the people'.³⁷ The *beau ideal* in mid-seventeenth century England for example, was an 'Elective *Aristocracie*', where legitimate

35 On Harrington's millenarianism see Pocock 1975, pp. 396-8; and J.G.A. Pocock, *The Political Works of James Harrington*, Cambridge University Press, 1977, see the "Historical Introduction", p. 17. Cf. . Champion 1992, pp. 201-2. I agree with Dr. Champion's argument that John Toland's edition of Harrington's *Works* (1700) is an indispensable source for understanding its Stoic and pantheistic context, as opposed to Pocock's emphasis on its millenarianist tones. However Pocock's views on this are highly complex and ambivalent, see for an excellent discussion, J.C. Davis, 'Pocock's Harrington: Grace, Nature and Art in the Classical Republicanism of James Harrington', *Historical Journal*, 24, 3, 1981, 683-697; and similarly, Scott 1993.

36 See the lucid discussion of the development of early seventeenth century Dutch and English modern republicanism (as opposed to 'classical' republican theory) in Tuck 1993, pp. 157-169, 202-259.

37 Thus in voting to formally establish England as a Republic, the Commons declared that the king and the power of his office had been 'unnecessary, burdensome, and dangerous to the liberty, safety, and public interest of the people of this nation'. S.R. Gardiner, *History of the Commonwealth and Protectorate*, London, 1894, I p. 3; in Tuck 1993, p. 250.

governing authority rested in a council of *elected* wise men (though not democratically via any 'mass politics' or universal franchise) and the precise constitutional form - i.e. whether a prince existed alongside this elected council of *primores* or not - was left mainly to pragmatic concerns. Harrington's republican vision was somewhat different, as we shall see, but he too unhesitatingly uses the language of 'interests'.

My concern here is to highlight the renewed concentration in republican theory between politics, psychology, and ethics in relation to the 'ancient prudence', or republican arts of government, which theorists such as Harrington distinguished against 'modern prudence', or the arts of private interest. Even more generally, a major fault line existed between republican (whether old or new) and Puritan sensitivities in their respective perceptions of the degree to which men's depravity prevented them from accomplishing or even attempting any kind of political change in secular time. How was a man to become free - through Christ or through the 'orders' of a commonwealth? By the late 1650's grace hardly seemed to be acting as a stabilizing factor in English politics and society, and the return of the Anti-Christ seemed as good a bet as the return of the Son himself.³⁸

For Harrington the depravity of men did not mean that there was not work for them to do, nor did it cancel out the possibility of erecting an effective commonwealth. The creation of a commonwealth was an 'art of man', which created out of the 'chaos and confusion...the architecture of a well-ordered commonwealth'.³⁹ Thus, aside from being a religious and philosophical creature, man was also rational and 'political' and just as 'form of a man is the image of God, so the form of government is the image of man' and the formation of government is 'the creation of a political creature after the image of a philosophical creature...the infusion of the soul or faculties of a man into the body of

38 Pocock 1992, 'Introduction' et passim; 1977, chapter 6 (pp. 109-127) et passim. See especially the introductory Epistles to *The Art Of Lawgiving*, p. 500 and *Valerius and Publicola*; p. 782; 1975, pp. 398-400; Davis 1992, pp. 527, 530. Cf. Tuck 1993, chp. 6 passim.

39 Harrington 1977, p. 341 (*Oceana*).

a multitude'. Whether or not it is 'quasi-divine', this art is a process of infusing form into matter, which in the case of the commonwealth consisted in its lands, goods, and (or) money, and subsequently, power over men's bodies.⁴⁰ 'Policy' is an art, and since 'art is the observation or imitation of nature', and politics is to be erected not according to 'fancy' but according to nature, then to know what form of government is most natural, 'we must consider what piece of art cometh nearest unto nature', and thus all governments are in some sense 'artificial'.⁴¹ God created the world but he also created 'human prudence', the rules of which, arising from the rules of nature, he is willing to let stand.⁴² Harrington attempted to argue that such prudence did exist and was justified, as well as to put it to work and provide the basis and means for the establishment of a proper English commonwealth. The commonwealth of *Oceana*, a fictionalized but recognizable England, which at least in his 1656 text is presented as a model to be grasped in a moment of revolutionary opportunity - an *occasione* in the Machiavellian sense - is based on Harrington's account of developments in English History. It is both an historical account and a proposal for the organization of government on classical republican terms. This involved a stance towards history similar to Machiavelli; that what was needed was a radical departure from the present in order to 'return' to the wisdom of classical antiquity. Harrington was calling very much for a return to the 'art of the republic' as compared with the 'modern prudence' of the state, which was the art of ruling according to some private interest rather than 'the

40 Harrington 1977, pp. 837-8 (*A System of Politics*, Chapter IV, 'Of the Form of Government'). See also Pocock's 'Introduction', pp. 120-1; and Champion 1992, pp. 202-3.

41 Harrington 1977, pp. 390, 564, 565 (*The Prerogative of Popular Government*), 723 (*Politicafter*). Cf. Toland's prefatory 'The Life of James Harrington', in *Works*, 1700. See Davis 1981, pp. 691-3.

42 The epigraph on the front page of *The Art of Lawgiving in Three Books* (1659) is from Psalms 115, 116: "The heaven, even the heavens are the Lord's; but the earth hath he given unto the sons of men."

common right and interest'.⁴³ This entailed abandoning the 'gothic constitution' of medieval liberties and establishing a republic along classical lines but specifically adapted to English circumstances. His key premise was that political power always followed economic power, which in the seventeenth century was landed power.⁴⁴ Political stability occurred only when political power reflected the balance of economic power. According to Harrington, this was precisely not the case in England, since it was clear that economic developments, namely the break up of concentrated landwealth and its distribution on a wider basis, necessitated a form of 'popular government' or commonwealth. Putting it crudely, the monarchy had become dependent on the feudal lords for social order and the defence of the realm, and in seeking to avoid the constant quarrelling of the nobility by abolishing the feudal system, it had in fact destroyed itself. When Henry VIII legislated against the nobility and dissolved the monasteries, he was in effect invoking a massive redistribution of land in favour of the 'commons', who as a result had a claim on political power proportionate to their prosperity. Property made men independent in terms of citizenship, that is to say, in terms of arms and civic participation in general. The post-feudal order was the story of the liberation of the individual from military dependence and economic depravity. As in Aristotle, one left the sway of 'goods of fortune' for the 'goods of the mind', and thus the opportunity to exercise one's governing capacity and be recognized as such by others.⁴⁵ This process was neatly summarized by Harrington in Book I of *The Art of Lawgiving*:

43 Pocock 1977, p. 161 ('Preliminaries', *Oceana*). Scott 1993 sees this 'exit' from modern prudence as one which also leaves behind any semblance of classical republicanism (at pp. 159-60).

44 For extensive commentary on Harrington's general theory see Pocock 1975, pp. 383-400; 1977, chapter 4 *et passim*; 1992, 'Introduction'; "Contexts for the Study of James Harrington", *Il Pensiero Politico*, 1978. See also Blair Worden 1991, pp. 443-475, for an admirably lucid discussion of Harrington and English republicanism in general, to which I am greatly indebted.

45 There is a helpful discussion in Pocock, 'Introduction', Harrington 1977, pp. 63-5.

if the balance or state of property in a nation be the efficient cause of government, and, the balance being not fixed, the government (as by the present narrative is evinced) must remain inconstant or floating, then the process in formation of a government must be first by fixation of the balance, and next by erecting such superstructures as to the nature thereof are necessary.⁴⁶

For Harrington these 'superstructures' would be 'agrarian law' and 'rotation'.⁴⁷ In the first case, extremes of wealth and poverty would be outlawed, and in the second there would be regular elections of office-holders and people's representatives. There would also be two assemblies, one with the power to debate and propose but not legislate, and the other with precisely the opposite powers. The split was justified on the basis of two predominant fears of Harrington's; that 'the many' left to a single all-powerful sovereign assembly would tend to corruption, and similarly, that 'the few' if left unchecked would not be prevented from legislating in their own interests (their natural tendency), which were rarely those of the commonwealth as a whole.⁴⁸ It was also justified according to a particular account of the capacities of self, or personality. Political decisions, which are often complex in nature, require appropriate capacities and qualities of personality not found in every citizen. Thus the activity of proposing choices (what Harrington calls debate) requires a 'personality structure' different from the activity of choosing from amongst those proposed (to 'resolve').⁴⁹ As in the case with Cicero, the republic rests upon a relation of equality between persons who are unequal in their capacities and it was only upon this basis that there could be virtue: 'If the frame of your commonwealth be not such as causeth everyone to perform his certain function...it is not right.'⁵⁰ For one to encroach

46 Harrington 1977, p. 609.

47 Harrington 1977, p. 180 (*Oceana*). Worden 1991, p. 452.

48 Harrington 1977, p. 173; see also pp. 204, (*Oceana*), 731 (*Pour Enclouer le Canon*), 736, 744-5 (*A Discourse upon this saying...*).

49 Harrington 1977, p.170 (*pace* Pocock's n.1).

50 Harrington 1977, p. 744 (*A Discourse upon this Saying...*). This comes at the end of a remarkable passage where he describes a carnival performance he saw in Italy involving a perfectly arranged kitchen with cats and kitlings 'so tied and so ordered' to perform particular functions in the making of a meal. This is discussed in Davis 1981, p. 696; Scott 1993, pp. 159-60; and Champion 1992, p. 209 (who draws a different point from it than Davis or Scott, see below). Pocock, 1992 'Introduction', Harrington 1977, p. 66. Also p. 51: 'a popular government or republic must include both a Few and a Many, related to one another

upon the other only resulted in confusion and injustice, since the latter would be excluded from authority and subjected to power. Nor was this a strictly democratic regime, as few republican schemes were. Harrington believed there was a god-given aristocracy who were naturally better suited to governing, which in England's case were the propertied gentry, and the point was to ensure their participation through electoral property qualifications but at the same time to circumscribe their power in the name of the common good. But political activity also had a value independent of protecting the various classes from sectional interest, it was also the means by which men were raised out of 'the mire of private interest' into the 'contemplation of virtue', which is a state 'nearer heaven, or to the image of God, which is the soul of man'.⁵¹ With a proper distribution of property and power, citizens were 'restored' to the order of nature, insofar that man was *kata phusin zoon politikon*, and used his own intelligence to define himself: 'those actions of a man that are virtue, acquire unto himself honour, and upon others authority'.

Government is nothing less than the 'soul' of the nation, and

as much as the soul of a city or nation is the sovereign power, her virtue must be law...(and)if the liberty of man consisteth in the empire of his reason, the absence whereof would betray him unto the bondage of his passions; then the liberty of a commonwealth consisteth in the empire of her laws, the absence whereof would betray her unto the lusts of tyrants.⁵²

Harrington placed enormous faith in the coercive power of law to structure and maintain the commonwealth in a way very similar to what we see in Machiavelli. Like Machiavelli, he was pessimistic about men's natures but believed good laws could make them at least act in the interest of the common good, providing an institutionalized structure of action which almost guaranteed virtue.⁵³ Interestingly,

on the basis of a differentiation of function'.

⁵¹ Harrington 1977, p. 169 (*Oceana*).

⁵² Harrington 1977, p. 170. (*Oceana*). See also Pocock's discussion in his 'Introduction', p. 64.

⁵³ Pocock, 'Introduction', Harrington 1977, p. 67. See Harrington 1977, p. 320 (*Oceana*): 'for as man is sinful and yet the world be perfect, so may the citizen be sinful and yet the commonwealth be perfect. And as man, seeing the world is perfect, can never commit any such sin as can render it imperfect or bring it into a natural dissolution, so the citizen, where

despite this pessimism Harrington had a very inclusive sense of citizenship, which some historians argue was even wider than that of the Levellers.⁵⁴ Whatever the scope of his idea of citizenship, it certainly placed him far beyond those in the arguments of royalists and monarchists, as well as differentiating himself from Machiavelli in important ways, and this has implications for our understanding of Harrington's use of the law. 'Give us good orders and they will make us good men' was the maxim of a legislator (rather than a demagogue) claimed Harrington, and 'the most infallible in politics'. This was in part provoked by his distrust of relying on good men in some 'standing senate' or 'rule by saints', which was too oligarchic,⁵⁵ but also by his belief that popular government and the rule of law was the one thing necessary to ensure virtue in the people. For Harrington, corruption was caused by a failure of 'the balance' to reflect the true distribution of property, which in the case of *Oceana* (and England), necessitated popular government: 'For the balance, swaying from monarchial into popular, abateth the luxury of the nobility and, enriching the people, bringeth the government from a more private unto a more public interest.'. It is from within the structural matrices of 'the balance' that lies the source of citizenship, since in getting it right and thus moving closer to right reason and justice, 'the people upon a like alteration is so far from corruption of manners as should render them incapable of of a commonwealth, that of necessity they must thereby contract such reformation of manners as will bear no other kind of government'. The opposite also holds true; when the balance goes from popular to oligarchical the public interest becomes privatized, 'which causeth

the commonwealth is perfect, can never commit any such crime as can render it imperfect or bring it unto a natural dissolution". See Davis 1981, p. 694.

54 Davis 1981, p. 694-5 makes this claim. See Wootton 1992, pp. 80-83, for an opposite view, and for the claim that the Levellers were speaking about both 'masterless' men as well as men with masters. Pocock 'Introduction', Harrington 1977, p. 67, argues that Harrington extended the franchise to all in *Oceana* except for servants (Harrington 1977, p. 212, *Oceana*), and that Harrington is with Rainborough rather than Ireton on this.

55 Harrington 1977, Pocock Introduction, pp. 118, 110; p. 796 (Valerius and Publicola) Also for his distrust of 'good men', see p. 753 (*A Discourse Showing That the Spirit of Parliaments...1659*).

such a corruption of manners both in the nobility and the people'. He is certainly not denying the kind of corruption of which Machiavelli writes - 'I am not ignorant that the corruption which he meaneth is in manners' - but that 'this *also* is from the balance' (my emphasis).⁵⁶

The connection between structure and personality is thus explicit, not only in terms of the arrangement of different 'personalities' according to capabilities and functions, but also in their development as individual moral beings through their participation in the governing of the republic. Indeed Professor Pocock insists that the 'release' of personal virtue through civic participation is the 'dominant purpose' of Harrington's political architecture.⁵⁷ But there is a deep ambiguity in Harrington with regard to the relation between self and government which is difficult to see if we accept this crisp summary of Harrington's intentions. On the one hand, his interpretation of history and his theory of government based on establishing a proper balance and elaborate system of orders suggested an attempt to ground freedom in the systematic organization of human personalities and capabilities. In other words, that the republic represents the means of not only governmental perfection, but to the extent that 'good orders make good men', a kind of human perfection, or at least an opportunity to live the best kind of life a man can live. And yet on the other hand, there is a strong sense that politics at best can only serve to contain the inevitable pursuit of self-interest on the part of its citizens, and that knowledge of some 'ultimate reality' or state of perfection is impossible. Thus laws and institutions (the orders) serve only to manipulate us into appropriate action, and to convince us only of the

⁵⁶ Harrington 1977, p. 202. See also p. 751-2 (*A Discourse Showing...*) with regard to the changing of 'form' and 'by this change' the people come to have their liberty, know how to hold it, and thus never want to part with it: 'and in this consisteth the strongest security against monarchy'. Cf. Worden 1991, pp. 455-6. I cannot agree with Professor Worden when he implies that Harrington was not interested in any kind of 'reformation of manners'.

⁵⁷ Pocock 1975, p. 394. See also Pocock 1985, pp. 42-3.

fact that it is not in our interest to act contrary to the public interest.⁵⁸ The orders of the commonwealth give the people 'a form that must preserve their liberty', and thus the 'security' of liberty lies not strictly *in* the people but in the form of their government. It is a 'form' supported by an 'interest' on the part of the people, an interest which in turn, can only be secured by this form (a commonwealth).⁵⁹ This was, however, a rigorous and strict kind of civic self-fulfilment, akin to a martial ethic, a community bound together by oaths, treason laws, and severe punishments for breaches of civic responsibility.⁶⁰ Education (the 'plastic art of government') also played a central role, inculcating the proper tools of interpretation so as to reduce the risk of being hoodwinked by devious clergy, and imparting the right set of civic values.⁶¹ Davis and Scott have argued that this element in Harrington is so strong that it cancels out any development of the political personality gained through participation. Citizens are limited to 'transient roles', and participate in 'a set of rituals designed to reduce (their) moral responsibility rather than enhance it'. In short, for Davis, it is a freedom purchased at the expense of civic virtue, a citizenship with no element of choice, 'a dead society, a human machine programmed for ever for the repetitious performance of the same

58 This is most vividly expressed in Harrington 1977, p. 753 (*A Discourse Showing That the Spirit of Parliaments...*1659): 'Evil men that can do no other than make just laws are safer than good men that must either make unjust laws or ruin themselves'. Pocock discusses this passage in 1985 p. 43, where he unequivocally says that the laws of a republic (pace Harrington) were not *regulae juris* or 'modes of conflict resolution', and that Harrington generally thought that men were by nature 'good and political'. See also, for a more qualified comment on this passage, Pocock 1992, 'Introduction', p. xxiii.

59 Harrington 1977, p. 797 (*Valerius and Publicola*)

60 On the martial ethos of Harrington's republicanism, see 1977, pp. 684-5 (*The Art of Lawgiving*), and especially p. 738 (*A Discourse upon this Saying...*). Worden 1991, p. 469, discusses Andrew Fletcher's 'training camps' in this context.

61 See Harrington 1977, pp. 306-7 (*Oceana*) on the "proper use of universities". Also pp. 679-81 (*The Art of Lawgiving*): "interest and ignorance - the one deriving from evil laws, the other from the want of good education - are not in the right or power of a clergy, but of a magistracy...These therefore are a necessary step towards the prevention of such ignorance or interest as, through the infirmities or bias of translators, interpreters and preachers". See also Champion 1992, p. 206.

function'.⁶² The tension between classical republican political ideals and the presumption of the wickedness of all men is not sublimated but eliminated, but only by reducing the scope for corruption to zero, by eliminating the possibility of individual choice.

Whatever the extent of the realm of 'real' free action inherent ^{and overly} Harrington's theory (and I think Davis and Scott present ^{and overly} one-sided picture),⁶³ there is no doubt as to the connection he sees between personality and the institutional structure of government, and generally that man's nature is expressed in terms of him being a citizen - a *zoon politikon* and possessor of property - and not as a subject. The issue between Machiavelli and Harrington then is not a question of which is more 'liberal', a particularly inapposite application of the term in this case, but on the nature of their projects as a whole. Harrington, unlike Machiavelli, was a utopian; as Valerius says to Publicola (Harrington's mouthpiece) in a 1659 dialogue; 'Verily...this model of yours is a most entire thing'.⁶⁴ Though the danger in

62 Davis 1981, pp. 695-6; Scott 1993 passim (but especially at pp. 159-63) See also Worden 1991, pp. 465-6. A key passage for consideration in this context is at Harrington 1977, p. 737 (*A Discourse upon this saying: The Spirit of the Nation is not yet to be trusted with Liberty...*): 'a people under orders of popular government are of the most prudent and serene spirit, and the voidest of intestine discord or sedition...The spirit of the people is no wise to be trusted with their liberty, but by stated laws or orders; so the trust is not in the spirit of the people, but in the frame of those orders, which, as they are tight or leaky, are the ship out of which the people, being once embarked, cannot stir, and without which they can have no motion'. See also p. 763, XIII (*Aphorisms Political*): 'Where the security is in the persons, the government maketh good men evil; where the security is in the form, the government maketh evil men good.'

63 Indeed Davis (1981, p. 696) even wants to separate Harrington from the civic humanist tradition in general, or at least what he calls the 'liberal' part of that tradition, (i.e. Machiavelli) which sought to provide institutional balances to enable men to face moral actions, even given the dangers of corruption. Pocock on the other hand has no hesitation in calling Harrington a civic humanist, and does so throughout his 1977 'Introduction' (see p. 91). See his response to Davis and Scott in Phillipson and Skinner (eds.) 1993, 'A discourse of sovereignty: observations on the work in progress', pp. 402-7, where in insisting that Harrington's project is a utopian one, he argues that 'It is the function of utopia to depict men as other than they are...(and) the aim of revolution to make them so. Harrington and Milton were to share the entirely correct conviction that if the political habits of Englishmen could not be transformed, they would choose them a captain back to the Egypt of the ancient constitution; and this is why Harrington's utopia is to be read as an attempt to change history and not stop it' (Pocock discusses the relevance of the 'kitten passage' mentioned by Davis, Scott, and Champion, at p. 406.).

64 Harrington 1977, p. 794 (*Valerius and Publicola or the true Form of a Popular Commonwealth*). See also Davis 1981, pp. 696-7; cf. Pocock 1993, p. 40

Harrington is always that the desire to fix the republic against fortune might significantly reduce the scope for the development of the civic personalities of citizens through its participatory institutions, he saw no contradiction between liberty and the 'formation of the citizen in the womb of the commonwealth'. Education was the main policy towards this end, but disconnected from the influence of the 'purple hosts' and squabbling clerics. Instead, a national church embodying a civic theology informed by the 'ancient prudence', and under firm civic control, would serve as the teachers and scholars of reason and virtue; 'the role of the state was to evangelize the claims of reason'. The state and its civic theology had to teach citizens to use their capacity for reason, and since Harrington believed in the liberty of conscience⁶⁵, he had to believe that his religion was effective whilst being non-coercive. This search for a non-coercive means of inculcating the capacities necessary for the preservation of the good life of the good society remains definitive of the republican project as a whole, whether old or new.

It might be useful here to summarize a general picture of the republicanism we have been discussing up to now. There are I believe, seven essential points to note. (i) A presumption of a basic civic equality, though not to be confused with a 'thick' egalitarianism since it was constituted in part on the basis of a differentiation of social roles, including a division of political labour according to personal capacities. But at its core was the idea that in sharing the acts of ruling and being ruled there was equality, and the shared possession of a public personality. (ii) The presumption of a particular self or disposition, which is connected in significant ways to the maintenance of the public good, in other words, that particular qualities of one's personality as manifested in the public activities of the state contribute to its furtherance and renewal. Thus, flowing from the recognition of equality in the participating in the exercise of public authority was the

⁶⁵ See above, and *The Art of Lawgiving*, in Harrington 1977, Book III, chapter II (at pp. 678-9).

development of a 'nature' attuned to citizenship through the 'orders' and institutions of the commonwealth (which in turn placed 'extremely stern' demands on the individual).⁶⁶ (iii) A strong patriotic identification with the political association itself, beyond any simple self-interest or desire for personal security, a quality less obvious in Harrington though particularly evident in the writings of Machiavelli. (iv) Some account of men's sociable tendencies, whether a fully blown Aristotelian picture of man being a political animal by nature, or the Ciceronian belief in the overridingness of the common good. And this is also often accompanied to ambiguous effect by a general presumption concerning man's depravity and unwillingness (or incapacity) to act positively and knowingly in his own interest, let alone in the public interest. (v) A presumption that citizenship is an active practice, that is to say, it is embodied in the interaction of the individual or social class with the state, and is not simply a condition or status satisfied passively, such as in the possession of legal rights (though this too could be part - though not a sufficient part - of republican citizenship). (vi) A particular account of liberty beyond simply the securing of one's private interests, which Pocock has called a 'positive' conception of liberty, where man is only free when his nature is 'completed' in a *vita activa* practiced in a *vivere civile* [though I want to be careful in using Berlin's language here and below]. (vii) An invocation of a relatively homogeneous picture of the community to which their theory is to be applied (though perhaps Machiavelli is unique in appreciating the benefits of a certain amount of civic 'commotion'; however this is not to say he embraces the tenets of modern pluralism) The invocation of the fiction of a community against which a theory of government is placed provides it with the task of either *containing* observed social and cultural heteronomy, or *transforming* it so as to live up to the 'fiction'. This is an important point to which I will return below.

⁶⁶ Pocock 1985, p. 43.

As we turn to an examination of arguments from the natural law tradition and ultimately to contemporary liberalism, I want to keep this (too cursory) list in mind in order to map out certain relations between the traditions. If, as Pocock has argued, classical republicanism defined the person in terms of a capability for participation in self-rule (in terms of virtue), then it would seem at first glance that the rise of neostoicism ⁶⁷, scepticism, and *raison d'etat*, and as we shall see, natural law, refuted this in insisting on the politics of strong princely rule, unquestioning obedience, and the limited *vita civilis* of the politics of self-preservation. Yet this would be too quick, since the importance of the 'moral' personality is hardly left alone, however much the actual participation of the citizen in government is limited, and instead becomes the focus of all sorts of new projects of reconstruction. This aspect of the humanist heritage is of crucial importance for our understanding of seventeenth century political theory, and in particular, that of John Locke. I will say immediately that it is certainly true that we are dealing with two different languages which often use different strategies of speech and argument, and sometimes address and encounter different problems. But with regard to the issues at hand - the relations between the concepts of liberty and

67 The ur-text of our understanding of neo-stoicism is Gerhard Oesteriech, *Neo-Stoicism and the Early Modern State*, Cambridge, Cambridge University Press, 1983, though it should be remembered that it is an unfinished work. See also Marc Raeff, *The Well-Ordered Police State*, New Haven, Yale University Press, 1983; Jill Kraye, "Moral Philosophy", *CHRP*, pp. 370-4, also includes a useful discussion of its diffusion across Europe; Martin Van Gelderen, "The Machiavellian moment and the Dutch Revolt: the rise of Neostoicism and Dutch republicanism", in Bock, Skinner, Viroli, ed. *Machiavelli and Republicanism*, Cambridge, Cambridge University Press, 1990, 205-223; James Tully, 'Governing Conduct', in *An Approach to Political Philosophy: Locke in Contexts*, Cambridge University Press, 1993, pp. 179-241; Taylor 1989, pp. 159-176; For a background to Dutch republican thought in general see, Eco Haitsma Mulier, "The language of seventeenth century republicanism in the United Provinces: Dutch or European?", in Anthony Pagden ed., *The Languages of Political Theory in Early Modern Europe*, Cambridge, Cambridge University Press, 1987. For an excellent discussion of Dutch military reforms in this context, see William H. McNeill, *The Pursuit of Power; Technology, Armed Force, and Society since A.D. 1000*, Chicago, University of Chicago Press, 1982, especially chapter 4 *et passim*. Many of these issues are now woven together in the comprehensive survey of Tuck 1993, *passim*. For a useful discussion in the context of a consideration of the development of governmental rationality in contemporary political theory, see Colin Gordon, 'Governmental Rationality; An Introduction' in Graham Burchell, Colin Gordon, Peter Miller eds, *The Foucault Effect: Studies in Governmentality*, Harvester Wheatsheaf, 1991.

self - how deep does this difference reach? If the vocabularies are 'outstandingly discontinuous'⁶⁸, are there relations at other levels?

What is the nature of these relations?

4.2 The juridical

One thing to note immediately in any comparison of the schools of natural law and classical republicanism, is the strong claim made by key theorists of the former to its uniqueness, not only in relation to the latter, but more immediately with regard to 'moral theology' and the discipline of 'civil law' (*id est* the laws of individual states). This is set out paradigmatically by Samuel Pufendorf in his *De jure naturae et gentium libri octo* (1672), and his wonderfully concise compendium *De officio hominis et civis juxta legem naturalem libri duo* (1673).

Pufendorf provides an essential foundation to the establishment of the 'discipline' of natural law, and I want to briefly consider his arguments here, and especially his emphasis on duty and the way in which one ought to conduct oneself in order to become a 'useful' member of human society.⁶⁹

What was Pufendorf's intention in presenting his argument in the form of a compendium so soon after publishing the considerably larger and extended DJN? One clue that suggests itself immediately is the

68 Pocock 1985, p. 39. It is a matter of some complexity as to whether or not neostoicism, and especially its manifestation in the seventeenth century in the United Provinces belongs to either 'the language of law' or the language of classical republicanism. I cannot answer that question here, only to note that various Dutch theorists made use of both vocabularies without obvious contradiction, notably in their defence of 'privileges', which far from being simply a matter of 'right', were, in light of contemporary power relations, a way of securing the means to political participation. See van Gelderen pp. 221-3 for this interesting argument, and the necessary historical references.

69 *On the law of nature and nations in eight books*, edited and with the notes and 'Historical and critical account of the science of morality' (intro), by Jean Barbeyrac, transl. Basil Kennet, London, 1729. See also the interesting translation by Thomas Gordon (the Scottish co-author with John Trenchard of the now-famous *Cato's Letters* (1720-3) and the *Independent Whig* (1720-1)) of Barbeyrac's history in *The Spirit of Ecclesiasticks of all Sects and Ages*, 1722. *On the Duty of Man and Citizen According to Natural Law*, ed. James Tully, transl. Michael Silverthorne, Cambridge, Cambridge University Press, 1991. Hereinafter DJN and DOH respectively. These were very popular books in their day, with the DOH a bestseller of sorts, going through some sixty editions. I do not mean to imply that the natural law school of the seventeenth and eighteenth century was in any way homogeneous. There were, of course, a number of significant divisions and outlooks within the general natural law framework.

title - *De officio hominis et civis* - which reminds us of Cicero, a connection Pufendorf's readers made easily enough. It is clear from the preface that Pufendorf meant it as a compendium compatible with being taught in schools and universities, where 'it is in the public interest to steep (student's) minds in a moral doctrine whose usefulness in civil life is accepted as obvious', particularly if it is done from early childhood so as to avoid the eruption of socially disruptive dogma.⁷⁰ It was, like Cicero's *De officiis*, a 'practical, politico-moral manual', which would soon be coopted into Protestant university curriculums across Europe (particularly in Scotland) and helping to develop a genre that eventually resulted in the proliferation of 'conduct books' and 'popular' lecture series on instruction in the 'moral sciences'.⁷¹ One important reason for clearly delineating the boundaries of the discipline was so it could be effectively inculcated into citizens' conduct.

Perhaps most importantly though, the demarcation of natural law from other disciplines allowed Pufendorf to concentrate wholly on the nature of the state and the establishment of the autonomy of the socio-moral world, or what we might call today 'the social'. In this, as a number of commentators have made clear, Pufendorf is unique amongst his contemporaries and near contemporaries, as well as having a foundational role in terms of the development of the juridical form of modern political and social theory. He does so in part by taking advantage of the methodology of the physical and

⁷⁰ Pufendorf DOH, p. 6 (Preface), p. 141 (II.7.8), p. 176 (II.18.9).

⁷¹ Tully 1991, 'Introduction', p. xxi. On the rise of the teaching of civil jurisprudence, and particularly the 'Scottish connection', see J.G.A. Pocock, "Cambridge Paradigms and Scotch Philosophers; a study of the relations between the civic humanist and civil jurisprudential interpretation of Eighteenth century social thought", in Istvan Hont, Michael Ignatieff ed., *Wealth and Virtue*; Cambridge University Press, 1983, especially pp. 244-6. Also, Knud Haakonssen, 'Natural Law and Moral Realism', in M.A. Stewart ed., *Studies in the Philosophy of the Scottish Enlightenment* Oxford, Oxford University Press, 1990, pp. 61-85; and R.B. Sher's fascinating 'Professor's of Virtue: The Social History of the Edinburgh Moral Philosophy Chair in the Eighteenth Century', Ibid, pp. 87-126. Also Haakonssen, 'From natural law to the rights of man; a European perspective on American debates', in Michael J. Lacey, Knud Haakonssen ed., *A Culture of Rights; The Bill of Rights in philosophy, politics, and law 1791-1991*, Woodrow Wilson International Center for Scholars and Cambridge University Press, 1991, pp. 19-61.

mathematical sciences, as Grotius had tried to do in the *De Indis* and *De iure belli ac pacis*, though he attempts to take the analogy much further in relation to the precision of 'moral science'.⁷² Human beings are unique from other beings not only in possessing the faculties of knowing and willing, but also in being able to invent the means directing their wills and providing for their needs. These means are 'ideas', which clarify understanding, and 'moral entities' which are the rules for acts of the will. Orderly natural reality is possible either through the creation of god, or by the imposition of human will (DJN 1.1.4), and moral entities are those that are 'impos'd on Things, and their Natural Motions, whence there springs up a peculiar Agreement and Conveniency in the Actions of Mankind'(such as the concepts of 'right' or 'property'; DJN 1.1.3). The moral theorist dealt in moral concepts that were *imposed* on human action rather than derived from them, and he dealt with exact hypothetical universals and demonstrated their moral properties.⁷³ The point was to apply universal deductions to practice, not to draw conclusions within practice. The certainty of moral science is premised upon this 'imposition theory'.

The resolute nominalism of Pufendorf's theory, which breaks with Thomist Aristotelian metaphysics, is crucial to his establishing the autonomy of the 'social' and to the development of an ostensibly 'modern' account of natural law. His voluntarist theory of moral entities renders the 'naturalness' of natural law as a matter of culture, rather than an essential nature common to all living things, or an original nature of man in the Garden of Eden.⁷⁴ We can, using our reason, clearly demonstrate the need to live according to the precepts

⁷² See Hugo Grotius, *De Iure praedae* (as *De indis* came to be called in the nineteenth century), trans. G.L. Williams, Oxford, 1950; in Tuck 1993, pp. 170-1. (But Cf. *The Laws of War and Peace*, tr. Basil Kennett, with the notes of Jean Barbeyrac, London, 1738, 1.1.10.1) Pufendorf DJN, book 1, chapter 2. I am indebted to the lucid discussion of this argument in James Tully, *A Discourse on Property: John Locke and his adversaries*, Cambridge University Press, 1980, pp. 27-34, and Dufour 1991, pp. 563-567.

⁷³ Pufendorf, DJN, 1.2.5-6, 1.2.4, 9. Tully 1981, pp. 31-2. Dufour 1991, pp. 564-5.

⁷⁴ Cf. Dufour 1991, p. 568.

of natural law. At base lay the fundamental law of nature, the law of 'sociability' (*socialitas*), which was not a natural disposition of man but a principle of social behaviour:

in order to be safe, it is necessary for (man) to be sociable; that is to join forces with men like himself and so conduct himself towards them that they are not given even a plausible excuse for harming him, but rather become willing to preserve and promote his advantages...On this basis it is evident that the fundamental natural law is: every man ought to do as much as he can to cultivate and preserve sociality.⁷⁵

This is an 'unsocial sociability', linking individual self-preservation (the key moral right which Grotius had identified as grounding the 'modern' theory of natural law against the sceptical challenge⁷⁶) and the peaceful preservation of society, without invoking any innate social appetite on the part of man, but rather on the basis of a fact about men. Pufendorf fills out this fundamental law with a number of other duties flowing from it; there are duties to God, to oneself, and to others, as well as duties not to injure others, to recognize and respect the equal dignity of fellow citizens, and to act benevolently in order to encourage and recognize the sociable dispositions of trust, gratitude, and reciprocity.⁷⁷ All of these duties are geared towards cementing society and preventing a social fragmentation that Pufendorf knew only too well would lead to war. Since men refused to see the earthly benefits of performing their duties, and 'divine vengeance (tended) to proceed at a slow pace', Pufendorf's system of sociality required an 'effective remedy for suppressing evil desires' - i.e. the state.⁷⁸

In the state of nature (discussed at DOH II.1 *et passim*) man lived in 'relative sociability', possessing both a natural freedom and equality, and ruled by sense impressions as well as by reason. This was not a

75 Pufendorf, DOH 1.3.7, 9. DJN 2.3.15.

76 See for example *De indis*, pp. 13-21; and *Rights of War and Peace*, 1.4.2, 1.4.7.

77 Pufendorf, DOH 1.4-8 (On man's duty to God, On duty to oneself, On the duty of every man to every man, first of not harming others, on the common duties of humanity, On the duties of parties to agreements). These duties are meticulously laid out and discussed by Tully 1991, pp. xxvi-ii.

78 Pufendorf, DOH 2.3.9. As Tully points out (1991, p. xx, xxix), for Grotius and Hobbes the goal was to establish political society and obedience to it in the context of the instability and destruction of the wars of the early and mid-seventeenth century. For Pufendorf, given the basic stability of the Westphalian settlement in his own lifetime, the theoretical goals of moral theory had changed somewhat.

thoroughgoing individualist account of the state of nature, which Pufendorf thought as pure fiction (something we see in an 'imaginative effort'- II.1.4), since it was obvious that men could not be found outside of *any* society.(II.1.7) However, in this state man was ultimately insecure because he was protected only 'by his own strength', and thus 'if a dispute arises...there is no one who can by authority compel the offender to perform his part of the agreement or make restitution'.⁷⁹ It was primarily this awareness of insecurity, as well as a kind of natural propensity for political order, which leads men to set up political societies. Though rejecting the Hobbesian account, he does not explain this 'natural propensity' in Aristotelian terms either, just as Grotius had attacked Aristotle's theory of the virtues (*Prolegomena* 44-5, *Laws of War and Peace*), or a picture of the 'good life' based on religious dogma. Indeed given the nature of man, prone both to malicious aggressiveness towards others as well as having a 'congenital tendency to want to be subject to no one', self-government inevitably fails.⁸⁰ The state then is arrived at in a three stage process. Firstly, by an agreement amongst *individuals* to enter into a 'single and perpetual union' to administer the means of their safety and security. Secondly, since this initial contract is not sufficient to establish it (it is only the 'rudiments and beginnings of a state'), the people must agree to a 'decree' regarding the form of government to be introduced, and until this is determined, 'no measures of public safety will be able to be effectively instituted'. The third and final stage, following the establishment of the form of government, is an agreement concerning the man (or men) to be appointed to provide for the common security of the state, and for the rest to 'bind themselves

79 Pufendorf DOH, 2.1.9-10. See also DJN 2.2.2: man is 'able to master nothing but an inarticulate sound, a stranger to all institution and discipline...even his own being'. On sociability and the natural liberty of man (liberty implying 'a[n] internal Faculty of doing and omitting things according to the direction of our judgement)', see DJN 2.1.2, 2.1.8.

80 Pufendorf DOH 1.3.7, 2.5.4. See also DJN IV.4.7, where in clear reference to the communitarian utopia's of More and Campanella, he rejects any simple optimistic assessment of human nature, since 'it being much more easie to fancie perfect Men than to find them'.

in obedience to him or them'. It is this second agreement which finally establishes the *civitas* (defined as 'a corporate body stronger than any other body'), the bearer of government as a monarch (or senate or free people etc.), and the rest as subjects or citizens.⁸¹ As Dufour and Tully point out, for Pufendorf the state is not merely a legal fiction but a specific and autonomous reality, an *entia moralia* with its own life, tasks, attributes, will, and power; i.e. its own sovereignty.⁸² Pufendorf's theory of sovereignty meant that the state was absolutely indivisible, the two agreements and one decree having created a supreme authority which denied any legitimate 'excuse for rebellion'.⁸³ Citizens (or subjects, Pufendorf uses the two interchangeably) cannot resist the legitimate commands of the state and must endure the shortcomings of a prince, just as 'good children must bear the ill temper of their parents', even in the worst of circumstances, which should be avoided (i.e. fled) rather than rectified through any kind of violent resistance.⁸⁴ It is not even beyond consideration that a people might consent to outright slavery, a 'civil servitude...not so foreign to nature as some fancy'.⁸⁵ It is within this

81 Pufendorf DOH 2.6.7. DJN II.6.5-6, VII.2.7. DOH 2.6.8. DJN VIII.2.8. DOH 2.6.9, 2.6.6. Of course, this process presupposes a basic right of liberty (*libertas*) on the part of the individual which encompasses the absence of subjection in one's command of one's physical and moral personality, including one's actions, body, and reputation, and is not dependent on the agreement of others, i.e. it is an innate or natural right (or cluster of rights). See Haakonssen 1991, pp. 28-9.

82 Pufendorf DOH 2.6.10. Dufour 1991, p. 574. Tully 1991, p. xxii. who also notes the particularly masculine sense to Pufendorf's understanding of state power and sovereignty.

83 On the absoluteness of state power, see DJN VII.6.7; on the right to resistance DJN VII.8.2, 3, 6. On the general presumption of justice concerning the acts of a sovereign, see DJN VII.8.3.

84 Pufendorf DOH 2.6.13. DJN VII.2.20. On bearing the shortcomings of the prince, DOH 2.9.4, DJN VII.8.5. See the discussion in Richard Tuck *Natural Rights Theories: Their Origin and Development*, Cambridge University Press, 1979, pp. 00-00; and Tully 1991, p. xxxiv.

85 Pufendorf DJN VII.8.6. The extent of Pufendorf's absolutism and theory of non-resistance has attracted considerable academic attention. See Dufour 1991, pp. 577-9; Horst Denzer, *Moralphilosophie und Naturrecht bei Samuel Pufendorf*, Munich, 1972, pp. 194, 205; Tuck 1979, pp. 00-00; Tully 1991, pp. xxxiii-xxxv. Pufendorf does allow for one exception - in the case of tyranny - but only on the grounds of self-defence and not on the assertion of any political authority or popular sovereignty (DJN VII.8.7). Equally, rulers should not assume that their citizens/subjects will always tolerate whatever they force them to endure. In his notes to this passage in the DJN, Barbeyrac links this passage to the martyred English radical Algernon Sidney as well as to Locke. Interestingly, as Tully points out, this passage

context that we should read Pufendorf's definition of what was a 'true' political animal or good citizen (rare as they are); 'one who promptly obeys the orders of those in power; one who strives with all his strength for the public good, and gladly puts his own private good second - one, in fact, who believes nothing to be good for him unless it is also good for the state; one, finally, who is well disposed to his fellow-citizen'.⁸⁶

Duty (*officium*) then, is paramount in Pufendorf's theory, both for citizens in relation to the government and the government in relation to its citizens. The use of 'officium' is an important linguistic convention to note here. Rather than the narrow sense which we attach to its literal translation (office), *officium* is used by Pufendorf in the wider Ciceronian sense, that is, referring to the role or station we occupy in life as individuals in a community and our attendant responsibilities and rights therein.⁸⁷ The basic range of offices included being a human being under natural law, being a member of a family, and being a member of a political society - the latter two of course, further subdividing into any number of distinct categories. Rights and duties are thus to be understood as a package, with one hardly separable from the other, and both attached in distinct ways to one's station. A right was not simply a granted power *tout court*, but a power granted for a purpose and in conjunction with matching duties; i.e. to use it properly, for others to respect your proper use, and generally for the 'package' to contribute to the overall moral order. Rights and duties were derivative of explicit and tacit contracts, but they could also arise from 'implicit contracts', which were inferred

is not in the DOH (1991, pp. xxxiv-v).

⁸⁶ Pufendorf DOH, 2.5.5.

⁸⁷ In Cicero, *officium* was closely related to *beneficium*, that is, the network of social relationships that made up society (families, friends, patrons, political allies, etc.) and which were in part maintained by the exchange of services which engendered mutual obligations all round. There were duties specific to one's role (*officia*) which Cicero saw as the closest equivalent to the Stoic term *kathekon*, or 'appropriate action'. See above, chapter 1. Also, 'Notes on Translation', in M.T. Griffin, E.M. Atkins ed., *On Duties*, Cambridge, Cambridge University Press, 1991, p. xlv.

from a relation between two or more parties in such a way as if it were based on a contract.⁸⁸ In other words, the idea here of the contract is a complete fiction, and the nature of the rights and obligations which arise is inferred simply from the situation they find themselves in (i.e. their respective offices), rather than according to what actual contracting parties willed. Children, for example, have obligations to parents even if they did not choose them, and citizens have obligations according to their various stations just as a matter of what they are. One can choose to what extent one wants to play one's role, but (in an almost Ciceronian way), 'the performance is judged in terms of the obligations that generally pertain to that role'. We only know what 'pertains' to the role through experience, that is, history tells us the pattern of expected behaviour attached to the office.⁸⁹ Governments and rulers have duties too, including providing for the safety of the people and ensuring a secure, well administered, and prosperous society, by putting the good of the state above their own and by respecting the dignity of their citizens.⁹⁰ Pufendorf especially emphasized the need for protection from external attack, through diplomacy and war-preparation (and war fighting), and the fostering of a strong military spirit via compulsory martial training and a distinct, financially supported military establishment.⁹¹

88 On offices, contractarianism, and the role of 'implicit contracts', see Haakonssen 1991, pp. 36-41. I am greatly indebted to this fine analysis.

89 Haakonssen 1991, p. 37. Thus is natural law contractarianism made compatible with the prescriptive use of history. Blackstone did so in his *Commentaries* (1: 47-8), which in turn was noted by the eighteenth century American Professor of Law James Wilson: 'Must our rights be removed from the stable foundation of nature, and placed on the precarious and fluctuating dais of human institutions?...If this view be a just view of things then under civil society, man is not only made for but by the government: he is nothing but what the society provides. His natural state and his natural rights are withdrawn altogether from notice...'. *The Works of James Wilson* [Public Lectures on Jurisprudence and Political Science] Volume II, ed. James Dewitt Andrews, Chicago, 1896, chapter XII, 'Of the Natural Rights of Individuals', pp. 296-336, pp. 302-3.

90 See DOH II.7, II.11, II.14 *et passim*.

91 Pufendorf DOH II.11, II.16, II.17, II.18 *et passim*. Tully 1991, p. xxxvii notes Pufendorf's inherent militarism and its legacy for our modern state system. Cf his "The Pen is a Mighty Sword", in James Tully ed. *Meaning and Context: Quentin Skinner and his Critics*, Cambridge, Polity Press, 1988, pp. 7-25, and especially pp. 22-25 for his claim that war preparation and war fighting ('practical conflict') are foundational practices in the development of the early modern political theory, and subsequently that it remains so for

Another aspect of the relation between state and citizen in Pufendorf's theory that I want to note before concluding this section is the kind of 'self' it presupposes, and the extent to which it grounds its practices in a particular account of this self. We know that the founding of the state (*civitas*) presupposes a natural liberty on the part of man guided by his reason, which leads him to agree to the establishment of a power capable of punishing those resisting the common interest of security. As we have seen, this is a considerable power, concentrated in one subject and originating from one will, which 'pervades all the parts and affairs of the state'.⁹² Its ubiquity is justified on the grounds of maintaining the 'internal peace' of the state, which requires that 'the wills of the citizens be governed and directed as the safety of the state requires'. This required not only 'appropriate' laws (clear, straightforward civil laws focused only on regulating as much as is necessary for the good of the state and citizens) and a credible threat of civil punishment, but also the authority of 'public discipline' and 'pure and sincere Christian doctrine', so that the citizens conform to the precepts of these laws 'not so much through fear of punishment as by habituation'.⁹³ Common opinion and men's education are crucial components of this process, since it is usually according to these that men's conduct is governed. Hence the state must avoid the propagation of dogmas that 'disturb civil society', and instead 'resound' with doctrines which are consistent with the 'right purpose and usage of states', and control the educational process such that its citizens are 'steeped' in them from childhood.⁹⁴ But perhaps the most powerful force of socialization is the entire edifice of mutual security through the laws of sociability themselves. That is, having abandoned their natural liberty and constituted a state for mutual protection, men are 'brought into order' and as a 'natural consequence'

contemporary political theory too.

92 Pufendorf DOH II.8.2.

93 DOH II.11.4,5.

94 DOH II.9.4, II.18.9.

come to enjoy the benefits of interaction with their fellows. Real advantage comes when men are steeped in such a system from their early years, and come to follow the 'more suitable habits of behaviour' and develop the 'various skills by which human life has been improved and enriched'.⁹⁵

In part, this relates to a complex theory of modernization which Pufendorf develops in detail in the DJN, but which I can only touch upon here. This theory is driven by an historical account of fundamental changes in the *cultura vitae*, that is, the changes engendered by man's ever pressing needs (*indigentia*). These developments are roughly plotted onto a four point continuum between primeval hunter-gatherer communities up to a proto-modern 'age of commerce'. Early primeval communities, though ignorant of the 'delicacies' of wealth, existed in a state of abundance and observed an 'enough as necessary' appropriation proviso. They also presupposed a relatively holistic portrayal of men's nature and labour; they remained undifferentiated according to their capabilities and duties, as well as sovereign over their labouring activity both in its conception and execution.⁹⁶ However as populations grew, scarcities arose and self-preservation becomes increasingly a matter of consuming things of 'the fruits of Industry' rather than from 'bare inassisted Nature'. This greatly increased the possibility of social conflict (since envy, covetousness, and ambition are permanent features of men), indeed communitarian arrangements always did so, and necessitated the introduction of a series of compacts protecting property and the products of men's labour.⁹⁷ In doing so, sociability

⁹⁵ DOH II.5.7.

⁹⁶ DJN V.2.9, 6.1. For comparisons between Pufendorf, Locke and Marxist accounts of pre-capitalist modes of production, see Tully 1980, p. 140-1. On Pufendorf's theory of modernization in general, see Istvan Hont, 'The Language of sociability and commerce: Samuel Pufendorf and the theoretical foundations of the "four stages" theory, in *The Languages of political theory in early modern Europe*, ed. Anthony Pagden, Cambridge, Cambridge University Press. I am greatly indebted to this fine analysis.

⁹⁷ DJN IV.4.6-7, IV.4.3. For a full discussion of this in the context of the seventeenth century as a whole see Tully 1980, p. 89.

was enhanced since with a 'separate Share of Good things to ourselves' men could practice 'liberality and Beneficence' through the mutual sociability of self-interested agents. Each property owner was still linked by each other's mutual needs but in order to exchange their goods, they now had to form themselves into a 'commercial society'; that is, a society dominated by the secondary acquisition of goods which allowed everybody, and not just land owners, the ability and means to subsist.⁹⁸ With a commercial society came a diversification and specialization of labour ('the various skills by which human life has been improved and enriched' quoted above), which brought 'divers Arts and Inventions' unlike anything that had occurred in the past.⁹⁹ Along with it though came the diversification of the human personality. If the citizen of the Renaissance republic was an undifferentiated self, both judge and warrior, which he needed to remain if he was to help in the governing and preservation of his *liberta* and his community, in Pufendorf's theory he was reduced to an episode in history, the victim of a ruthless modernism assigning each preceding stage to an irrevocable past. Though cognizant of the dangers of commerce and its potential to encourage men into 'prodigious Corruption and Degeneracy', it was a risk that had to be taken if men were to rise above the 'barbarous' conditions of past ages.¹⁰⁰ Sociability taught (in neostoic terms) that men were to pursue things of this world with a just measure of sobriety, to 'rest satisfied' with one's share, and to not covet things one was unable to obtain, things 'not worthy of our grief or our Anger'.¹⁰¹ Underlying the theory of sociability then was an account of ruthless commercial expansion, but also potentially one of a developing refinement of the personality, a

98 DJN IV.4.7, V.1.11. Barbeyrac's footnote to V.1.1 notes that any growth of vice or corruption with the rise of commerce is not relevant because 'this respects another Question, which rather relates to Divinity than the Civil law...Commerce is necessary among men, in the condition they are...the settlement of Commerce in General is very conformable to the most pure reason, and the Law of Nations' See also Hont 1987, pp. 275-6.

99 DJN VII.1.6.

100 cf. DJN II.2.2 and Barbeyrac's footnote to V.1.1 quoted above.

101 DJN II.4.9.

process whereby one became a 'useful member of human society'.¹⁰²

We might want to say that along with redefining what it is to be a 'political animal', Pufendorf has reworked the concept of self-government, if not effaced it. Being a 'useful' member of society does not seem to include sharing in the administration of its *imperium*, nor seemingly are those capacities for self-governance recognized and fostered by the state through any 'structures of virtue'. It appears that natural law concerns itself solely with ordering the external actions of men through a range of social duties (and rights) which manipulate them into acting in the interest of the state, the guarantor of common security. This was certainly the verdict of Leibniz, who argued vigorously against this 'cutting off of the end of natural law' and the restriction of its object, 'which not only Christian philosophers treated...but also the ancient pagans'.¹⁰³ How could the topics of law, duty, good actions, and sin, asked Leibniz, which are all located 'in the interior' and pertain to law and natural justice, be considered if not in the science of natural law? Countering in an Aristotelian vein (pace the *Nicomachean Ethics*, X, II80b1-26, II81b23, Leibniz answered:

he who has control of the education or instruction of others, is obligated, by natural law, to form minds with eminent precepts, and take care that the practice of virtue, almost like a second nature, guides the will toward the good.. (Pufendorf's) hypothesis about a soul which is internally corrupt and outwardly innocent is not very safe and not very probable. (69)

This is a defining moment in the history of the discipline of natural law, as one of its first great historians knew - Barbeyrac translated Leibniz's 'Opinion on the Principles of Pufendorf' and appended it to his 1718 translation of the DOH. It showed the extent to which the demarcation argument had come to be accepted, and how successful Pufendorf had been in connecting natural law to the realm of the 'social', understood narrowly as the frame within which the external actions of men would be ordered so as to guarantee civil peace,

102 DOH I.3.8. See also DJN II.1.V, where Pufendorf talks of the need to live a life of 'society and civility', and II.4.4 where he argues against certain Epicurean notions as being destructive of 'good manners' and 'human society'.

103 Leibniz, 'Opinions on the Principles of Pufendorf', in Patrick Riley ed., *Leibniz: Political Writings*, Cambridge University Press, 1988 (1972), p. 68.

security, and prosperity.

We can, I believe, abstract from Leibniz's gloss on Pufendorf a general perception about the nature of the relationship between the state and its power, its citizens and their power, and the juridical form of modern thought - a dominant mode of understanding persisting even until today. Ever since the state building ideology of the mid seventeenth century (and here one must introduce Thomas Hobbes and Jean Bodin, whom I have not examined but who have an equal, maybe even greater claim to the establishment of the ideology of the modern state than Pufendorf¹⁰⁴), the capacity and right of a given population to act purposively as a genuine political agent - whether in making a claim to rule or calling a government to account - has been undermined, partially as a response to the problem of endemic national and civil warfare, perhaps the central problem of seventeenth century political theory. These capacities, which in complex ways help to ground the constitution of those actions later called 'rights', were also undermined or at least re-arranged, by the emergence of a highly diversified and fluid 'commercial society' which made new demands on an analogously fragmented personality. Alongside this account, as Leibniz pointed out, came the belief that in doing so, political theory was moving from an inclusive concern with political agency to a purely exclusive one, that is to say, moving from being concerned with the overall nature of *persona* to being concerned merely with the 'external actions' of persons. This also generated, as we shall see, a particular account of liberty almost wholly concerned with a realm of free action in the context of an exercise of essentially 'exclusive' rights. However in important ways this is simply a fiction of the juridical mode of government, though a central one at that. It is clear, as we have seen above, that in a theory like Pufendorf's - despite Leibniz's complaints - it is far from true that it is merely the external actions of

¹⁰⁴ See Quentin Skinner, 'The State', in Terence Ball, James Farr, Russell L. Hanson eds., *Political Innovation and Conceptual Change*, Cambridge University Press, 1989, pp. 90-131.

men that are acted upon, or understood simply as a matter for containment or conflict management. Citizens (or subjects) are the target of enormous efforts of socialization precisely because in reality they do not live up to the fiction generated by the theory. There is also a vigorous system of mutually obliging duties in order to preserve the common (and individual) good of 'security', it could not be a matter for each alone. Natural law theory is never univocally individualistic, or 'atomized'. The relations constituting civil society were not a simple aggregation of rationally organized individual wills, nor were they 'negotiated deals abridging the potentially open-ended claims of individuals', but rather 'specifications of the relationship among the offices imposed upon individuals by natural law'.¹⁰⁵ Pufendorf did not ignore a concern for self, but reworked the relationship between the self and the political order and brought upon it all sorts of techniques and practices (including particular accounts of historical development). In the context of a near-absolutist theory like Pufendorf's, the political agency of the population is severely curtailed, if not obliterated, and subjects are reduced to becoming 'useful' as a

¹⁰⁵ Haakonssen 1991, p. 36. One implication of seeing the natural law tradition in this way, made up of at least a number of different accounts of the relation between natural law-right-duty, is, I believe, to begin to undermine the monochromatic tag of 'atomism' applied to seventeenth century social contract theory made so influentially by Charles Taylor. See his 'Atomism' and 'Social Theory as Practice', in *Philosophy and the Human Sciences: Philosophical Papers II*, Cambridge University Press, 1985, pp. 187-210, 91-115; *Sources of the Self; The Making of the Modern Identity*, Cambridge, Cambridge University Press, 1989. Though it is true that people are conceived as beginning as 'political atoms' (193), it does not follow that as a result, at least in the theories of Pufendorf, Grotius, and Locke (Taylor's list, p. 193), the human agent is 'no longer to be understood as an element in a larger, meaningful order', or that 'he is on his own'. (193) Nor is it the case that all contractarian theories emerging out of the natural law school (such as Pufendorf's, Grotius', and Locke's) assert a 'primacy of rights' which denies the same status to 'principle of belonging or obligation', and ascribes rights to men as 'binding unconditionally'. (Atomism, p. 188) This should be obvious given the account of Pufendorf I have provided here, and will hopefully be true also of the account of Locke below. Taylor builds the individualism of the founding contract into an all embracing ontological argument about the 'hard' subjectivism of contractarianism - which is only really found in Hobbes (whom Taylor curiously does not include on his list). Though at first glance it might seem that Taylor is only attacking particular contemporary accounts of this tradition (particularly those who have made historical and normative connections between social contract theory, individualism, rights, and modern liberalism) rather than the tradition itself, in his most recent work he seems to lay the blame at the feet of the original theorists themselves (see 1989, Part II, 'Inwardness', pp. 111-207 *et passim*).

means of ensuring civil peace, social order, and economic prosperity.

This brings us to the larger fiction constitutive of the modern state in general; the assumed 'intimacy' of the ruled and rulers where the former are implicated in the sovereign acts of the latter (as citizens). This presupposes that the state has assumed an essentially impersonal character beyond personal or charismatic terms, which we see paradigmatically in Hobbes, though also to a slightly different extent in Pufendorf.¹⁰⁶ This assumed intimacy itself is predicated on a double fiction. Firstly, it presumes a certain kind of *persona* or self on the part of its citizens; that is, an ability to act and conduct oneself in a certain way which underpins the normative and applicative force of the theory. Where there is a tension between this homogeneity of action and the recognition of practical heteronomy, the project becomes to fashion people to fit into these fictional communities. This is true of near-absolutist theories such as Pufendorf's, and unapologetic absolutist theories such as Hobbes. On top of this fiction lies another, that the citizens (so constituted) are said to participate in the governing of the state, whether through actual participation or representation, and that the state is therefore directed in some (significant) way by the political agency of 'the people' over whom and for whom it acts. The practical reality of state power usually tells a different story, the character of which is generally to work against the assertion of the political agency of 'the people' upon which its very legitimacy is predicated. It might be that '[i]f a fiction is necessary enough it is not a lie'; but it is important to understand the nature of this fiction and equally to try and see how it is used and in what circumstances it is invoked, and the causal relations between it and a practical political reality.¹⁰⁷

¹⁰⁶ See Skinner 1989 *passim*.

¹⁰⁷ See the discussion in John Dunn, *Interpreting Political Responsibility; Essays 1981-1989*, Cambridge, Polity Press, 1990, especially the Introduction, pp. 1-8. Also, a lucid series of articles by Barry Hindess; "Power and Rationality: The Western Concept of Political Community", *Alternatives*, 17, 1992, 149-163; "Taking socialism seriously", *Economy and Society*, 20,4, November 1991, 363-379; "Liberalism, Socialism and Democracy: variations on a governmental theme", presented at Foucault and Politics Conference, Goldsmith's

But this is not a simple or clear cut story, nor is it a relation free from tension and counter-practices. Pufendorf represents an extreme limit of both the demarcation of natural law and a theory of the state/citizen relationship which settles civil peace by creating a civil society with a severely restricted scope for meaningful political agency. We seem a long way from the self-governing agency and the 'structures of virtue' of classical republicanism, though I have argued that another kind of structure has inserted itself between the *imperium* of government and the 'rights' of citizens. And yet there is another aspect of the natural law tradition which might bring us closer to what we examined above in chapter 3, and which begins to work away at the margins of its strict demarcation from the concerns of classical political theory. The ground between the two languages and practices begins to close with the development of radical arguments of popular sovereignty, and the concepts and practices of liberty and self which underpin these theories.

4.3 John Locke, republicanism, and the juridical mode of government

This brings us to a consideration of some of the work of John Locke. There are at least four reasons for doing so here. (i) Locke, like Pufendorf, is a key theorist of the juridical mode of government, and occupies an important position in the labrynth of early modern 'oppositional' political theory. (ii) Locke provides a radical, complex, yet cogent account of the nature of political power and government which answers directly to various absolutist and near-absolutist theories of sovereignty (such as Pufendorf's, which Locke read and studied closely). (iii) In doing so he articulated a powerful conception of political liberty which has subsequently been taken to be foundational to aspects of contemporary liberalism. However this historical 'lumping' can be problematic and needs to be considered carefully, taking into account the actual historical arguments in relation to the intentions of their future glossators. Fourthly, Locke

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accompanied all of this with a sustained, complex, and hugely influential consideration of the nature of human understanding and 'self'. (iv) Locke was at times deeply implicated in the practical arts and affairs of governing and active opposition, and thus provides us with a unique opportunity to chart the murky relationship between theory and practice; the way theories and concepts constitute and hold particular practices (here, of government) in place. In sum, an attempt to account for all four of these reasons should enable us to deal with the three overarching goals of this chapter; (i) the relationship between classical republicanism and natural law social contractarianism, (ii) the nature of the citizen/state- right/duty complex in early modern political theory, (iii) and the implications of a particular reading of the history of liberalism for claims made on behalf of its defenders and critics in our contemporary debates.

As I mentioned at 4.1, I will be concerned here with Locke's political theory, especially as it is expressed in the *Two Treatises of Government* and *A Letter Concerning Toleration*, and with sketching those arguments about political power, the nature of government, and liberty, which we find modern theorists identifying as either proto-liberal, or in some sense foundational for modern liberalism. In chapter five I turn to a more particular account of Locke's account of the self and moral conduct which I believe has implications for the arguments I am about to sketch. A short conclusion at the end of chapter five will hopefully bring these points together before moving on to the contemporary arguments themselves.

One obvious way of radically differentiating Locke from the classical republican tradition is to claim bluntly that he did not share any of the background language, *mentalite*, or ethos of Renaissance civic humanism (or any kind of humanism for that matter) as it was reworked in the seventeenth century, and this is precisely what Professor Pocock has done in the process of rejecting a number of

'myths' about Locke,¹⁰⁸ Of course it has been as a result of recent scholarship that this tradition has come to be identified at all, which gives us the opportunity to reconsider Locke in this new comparative context. At first glance this seems obviously true; Locke did not call for a new Jerusalem or Athens, and his language and tone seem far distanced from the republican mellifluousness of a Milton or Harrington. More to the point, in the *Second Treatise* Locke locates virtue in some distant 'Golden Age (before vain Ambition, and *amor sceleratus habendi*)', which became impossible to maintain with expanding populations and the rise of 'Ambition and Luxury'.¹⁰⁹ Here Locke was using an account of modernization similar to what we saw in Pufendorf (the 'four stage theory'), and what Adam Smith and others would use in the eighteenth century to justify the development of commercial society.¹¹⁰ And yet this is not quite a complete indifference to virtue, nor even was he *wholly* indifferent to the ethos of Renaissance civic humanism. In his educational writings, though attacking the renaissance cult of virtue and especially its glorification of war, he also set out the basis for socialising children (of the gentry)

108 J.G.A. Pocock, "The myth of John Locke and the obsession with liberalism", in Pocock, Richard Ashcraft ed. *John Locke*, Los Angeles, William Andrews Clark Memorial Library, University of California, 1980, 1-24, pp. 13-18, 18-20; "The Machiavellian Moment Revisited: A Study in History and Ideology", *Journal of Modern History*, 53, March 1981, 49-72, pp. 66, 65-7. The key moment in the displacement of Locke for Pocock is what he calls the 'Financial Revolution' - the rise of public credit, its threat to government stability, the opposition of 'new' property versus the old, and the threat to public virtue as a result of the incessant rise of commerce. Pocock claims that a neo-Harrington critique of the effects of the rise of commerce on the differentiation of 'the personality' rose up against these developments, and the opposition of 'real' property (ie. real independence) versus the more ephemeral gains of modern commerce. Though an early investor in the Bank of England, Locke played no role in supplying the language of its defence, and the attack was carried out in one to which 'he was so utterly indifferent'. Hence what I refer to as Pocock's 'Indifferency Thesis'. More recently Pocock has argued that; 'Political theorists at this day see the enterprise of political thinking as a juristic enterprise, couped with a debate over its philosophical possibility; it was John Locke who laid down that political literature was concerned either with the origin and rights of government, or else with the "government of men", about which he did not say very much' (Pocock 1993, p. 394). The rest of this chapter and the next are in a way meant to test this last claim.

109 John Locke, *Two Treatises of Government*, ed. with Introduction and notes by Peter Laslett, Cambridge, Cambridge University Press, 1989 (Student Edition). References to the *Two Treatises* shall hereafter be provided in the body of the text in paranthesis (book, section) following any quotation. All italics in the quotations are Locke's.

110 See Hont 1987, and Tully 1992.

into the kind of behaviour suitable for civilized living in the early modern world; i.e. providing the grounds for virtuous conduct. Moreover, as we shall see in chapter five, Locke was very concerned to articulate the basis of 'right conduct' and describe the conditions and structures within which it was fostered and enacted. It is important not to confuse Locke's apparently non-classical redescription of what constitutes virtue with the claim that he (and the traditions of natural law, social contractarianism, or 'liberalism in general') rejected virtue altogether, or wholly subordinated it to 'laws and rules'.¹¹¹ Locke too is interested in grounding certain capacities in relation to the social and institutional structures within which they act; the idea of liberal virtues is not paradoxical in the least. Though his earliest significant writings do not betray any republican tendency whatsoever¹¹², this is not to say Locke was not (at least) exposed to the basic literature of the old and new humanism. His time at Westminster School would have familiarized him with classical literature, though in later life he remained dubious as to its linguistic benefits, commenting in his *Some Thoughts Concerning Education* that it was hardly worth the trouble of sending one's son to such an institution 'for a little Latin and Greek'.¹¹³ As well, as mentioned above, by the mid-seventeenth century, humanism was pervasive in college curricula and remained so at least until the Interregnum. Puritan reformers attacked the universities in ways similar to Erasmus - too much emphasis on scholastic techniques, too narrow academic exercises, and an

111 Cf. J.B. Schneewind, "The Misfortunes of Virtue", *Ethics*, 101, October 1990, 42-63, who argues Locke does precisely this (p. 45).

112 John Locke, *Two Tracts on Government*, ed. P. Abrams, Cambridge University Press, 1967. See the discussion of Locke's early *Essays on the Law of Nature*, in John Dunn, *The Political Thought of John Locke: An Historical Account of the Arguments of the Two Treatises of Government*, Cambridge University Press, 1969, noting their 'enclosed and insulated character...their sustained exposition of a single theme, a theme effortlessly located in the most rigid cadre of theological and social convention'. (p. 20-1) Cf. Wolfgang Von Leyden, *John Locke, Essays on the Law of Nature*, Oxford, Oxford University Press, 1954.

113 John Locke, 'Some Thoughts Concerning Education' in J.L. Axtell, *The Educational Writings of John Locke*, Cambridge University Press, para. 70, cf. 147. See Maurice Cranston, *John Locke, A Biography*, Oxford, Oxford University Press, 1985 (1957), p. 22 for the classical requirements of a King's Scholar, which Locke was whilst at Westminster school.

overemphasis on metaphysics. In 1653, Oxford 'Visitors' (commissioned by the Saints Parliament) criticized the 'monkish aloofness' of much of the curriculum and teaching, and encouraged the combination of 'godliness and learning' harnessed to the public concerns of the commonwealth.¹¹⁴ Locke, (who arrived at Christ Church in 1652) would share this frustration with medieval disputation, though as a Tutor, Lecturer in Rhetoric, and eventually Censor of Moral Philosophy, his interests led him mainly to the study of natural law, medicine and science.¹¹⁵

However towards the end of his life Locke made a series of interesting recommendations in the course of responding to Richard King's request for the 'surest way' to educate and train a young gentleman in 'the Practice of Human Offices', which are worth glimpsing at here.¹¹⁶ 'As to Morality' writes Locke, 'If you have a mind to see how far Human Reason advanc'd in the Discovery of Morality, you will have a good Specimen of it in Tully's Offices; unless you have a mind to look farther back into the Source, from whence He drew his Rules; and then you must consult Aristotle, and the other Greek Philosophers'. The business of morality is 'the avoiding of crimes', and of prudence ('reckon'd among the Cardinal Virtues'), inconveniences, 'the foundation whereof lies in knowing Men and Manners'. For the rules of prudence Locke is unable to provide a source other than history and experience, since too many writers on it 'have their Eyes so fix'd on Convenience, that they sometimes lose the Sight of Virtue...while they are tracing out what they take to be, sometimes, the securest way to Success'. [Here is our first hint that

114 See Margo Todd, *Christian Humanism and the Puritan Social Order*, Cambridge University Press, 1987, p. 91.

115 See the comments of Lady Masham on Locke's perception of Oxford teaching, Cranston p. 38, but cf. Axtell pp. 42-3.

116 Locke to Richard King, 25 August 1703, no. 3328, in E.S. de Beer, *The Correspondence of John Locke VIII*, Oxford, Clarendon at Oxford University Press, 1989, pp. 56-59. I demur at De Beer's suggestion at n.4 p. 57 however that 'Offices' as Locke uses it is a rare usage restricted to Cicero's *De officiis*. Given what we know of its usage by the Christian Humanists and Pufendorf for example, though always related to Cicero in important ways, it was far from being a rare usage in the context of the seventeenth century.

Locke is not wholly given over to the 'reason of state' tendencies of the new humanism] A final element in such an education is 'Good-breeding' - learned from conversation with the well-bred themselves - which is closely allied with 'Virtue and Prudence', such that 'he will scarce keep himself from Slips in both, who is without it'.¹¹⁷ As to books, Locke provides a list which includes Aristotle's *Politics* (an 'allow'd Master' in the science of civil society), Cicero's *De Officiis*, Hooker's *Ecclesiastical Polity*, his own *Two Treatises*, and Pufendorf's *De officio hominis et civis*. Finally, knowledge of 'Administration of the Publick', following from his distinction between general and particular knowledge (ie. political theory and empirical political science, or the 'art of government'), is variable as a result of the 'mutable State of Men and Things in this World', and as a result, 'a very small part of this consists in Book-Learning' (I will discuss Locke's conception of the 'art of government' in greater detail below).¹¹⁸ It is a rarely asked question in the Locke academic industry precisely what, for example, did Aristotle's *Politics* and Cicero's *De officiis* mean to Locke?¹¹⁹ Were they simply the conventional icons of any reading list of any don, or for that matter, any well educated person of the seventeenth and early eighteenth centuries? No doubt this is partially true. And yet, there just might be something more, especially with regard to Cicero and Aristotle, of whom Locke owned many works, including two sets of Cicero's complete works, seven editions of *De*

¹¹⁷ de Beer 1989, pp. 57-8.

¹¹⁸ De Beer 1989, p. 59.

¹¹⁹ But see Richard Ashcraft, "John Locke's Library: Portrait of an Intellectual" in Richard Ashcraft ed. *John Locke: Critical Assessments I* (of IV), London, Routledge, 1991, pp. 17-49. Also, William Arthur Bruneau's neglected "Towards a History of Moral Education: Some Fundamental Considerations and a Case Study", *Paedagogica Historica*, XV, 3, 1975, 356-378, and M.G. Mason, "The Literary Sources of John Locke's Educational Thoughts", *Paedagogica Historica*, V, 1965, 65-108. Neither are included in Ashcraft's great compendium of Locke articles, though Ashcraft has recently lamented that Locke scholars seem uninterested in the relationship between Locke and classical authors. Cf. the suggestive remarks by John Marshall (querying the relationship between Locke's political theory and Cicero's *De officiis*), 'John Locke's Religious, Educational, and Moral Thought', *Historical Journal*, 33, 4, 1990, 993-1001, especially at p. 1001. Though brought to my attention only recently, this discussion articulates many of my intentions here (no doubt more clearly and succinctly!)

officiis, and numerous editions and translations of the letters and speeches.¹²⁰ Nor was his recommendation to King concerning Cicero and Aristotle an isolated affair; he recommended them to his students and friends when he was a tutor at Oxford, and to numerous correspondents, not only for the study of morality, but (particularly in the case of Cicero) for learning an appropriate latin style, the skill of letter writing, and eloquence - though not the practice of classical rhetoric (of which he was a fierce critic).¹²¹ Locke was heir to the general Christian humanist tradition of education and moral development as it was unfolding in the sixteenth and seventeenth centuries in England and on the continent. Like Aristotle and Cicero, he was concerned with the education and character formation of man both as an individual and a member of a community, hence the emphasis upon providing the means to live, and not just the mere accumulation of knowledge or skill.¹²² This can also be seen in the

120 See Peter Laslett and John Harrison, *The Library of John Locke*, Oxford Bibliographical Society, Oxford University Press, 1965, p. 18, 108. Classical literature constituted roughly ten percent of Locke's collection, almost equivalent to the number of books on politics and law, slightly less than his collection of medical books, and considerably less than those on theology (which constituted 23.8% of the library available). Cf. Axtell p. 294. Along with numerous works of Cicero, Aristotle, Seneca and Quintilian, Locke possessed selected works of Comenius, Erasmus and Lipsius (*De constantia*), as well as the complete works of Machiavelli.

121 See John Locke, *An Essay Concerning Human Understanding*, edited with a foreward by Peter H. Nidditch, Clarendon Press, Oxford, 1975 (1988), Book III, Chapter 10, Paragraph 34 [hereinafter references to the *Essay* shall follow quotations in paranthesis in the body of the text according to book, chapter, and paragraph]. It might be fine for 'Pleasure and Delight', but it is not suitable where we seek 'Information and Improvement'. See MSS. Locke, f. 11, folios 43-44 where Locke makes recommendations (in 1667) to a student for the study of virtue, religion, breeding, wisdom, and study (as we shall see this ordering is significant) and that following graduation he should look after his estates with prudence and review and improve upon his 'university notions'. Mason (1965, p.75) links this with his claim that Locke is following a generally Aristotelian approach to the development of moral character through education. On Locke's recommendation of Cicero for eloquence, the letter to Edward Clarke, 15 March 1686, no. //, pp. //-. Cf. STCE, para. 188-9 and "Some Thoughts Concerning Reading and Study for a Gentleman", 1703, in Axtell ed., p. 399, where he goes so far as to recommend the proper edition of Cicero's *De officiis* one should buy.

122 See STCE, para. 94: 'prudence and good breeding are in all the stations and occurrences of life necessary; and most young men suffer in the want of them and come rawer and more awkward into the world than they should for this very reason, because these qualities, which are of all other the most necessary to be taught and stand most in need of the assistance and help of a teacher, are generally neglected and thought but a slight or no part of a tutor's business. Latin and learning make all the noise, and the main stress is laid upon his proficiency in

main goals of his educational program (which cannot be treated in isolation from his larger philosophical and political works) - the inculcation of proper virtue, religion, wisdom, 'breeding', and learning. Virtue was 'the power of denying ourselves the satisfaction of our own desires where reason does not authorize them', a power of self-government achieved and improved through 'custom' and 'practice' (note that virtue must be 'aim'd at' in *Education* - STCE, 70.); it was the endowment that made him 'valued and beloved by others' and 'acceptable or tolerable to himself'.¹²³ The virtues were (aside from the architectonic quality of self-denial): civility, industry, liberality, justice, courage, and honesty. The foundation of virtue rested partially on the love of one's reputation, but was mainly having a true notion of God, which meant understanding his moral laws, the process of which Locke spent most of his life working out, and especially in the *Essay*. (See also STCE 138-139). It was from studying the New Testament, along with Cicero's *De officiis*, Pufendorf's *De officiis*, and Aristotle's *Ethics* and *Politics*, that 'a man may learn how to live, which is the business of ethics, and not how to define and distinguish and dispute about the names of virtues and vices'.¹²⁴ I do not think Mr. Laslett wholly captures this aspect in his account of what he calls Locke's doctrine of 'natural virtue', defined as 'some tendency' which allows for 'the existence, the desires, actions, and

things a great part whereof belong not to a gentleman's calling - which is to have the knowledge of a man of business, a carriage suitable to his rank, and to be eminent and useful in his country according to his station'. Cf. Mason 1965, p. 75, and Bruneau p. 371 (who quotes from the same passage).

123 STCE p. 36, 38, 107, 135; the self-mastery discussion takes place generally between 33-39. Cf. John Locke, *An Essay Concerning Human Understanding*, ed. Peter H. Niddich, Oxford University Press, 1975, 4.12.11.

124 'A draft letter to the Countess of Peterborough' (1697), in Axtell ed., p. 395. See 'Some Thoughts' 1703, in Axtell ed., p. 400 where Locke comments that for the study of morality one need only send the New Testament, though if one 'had a mind to see how far the heathen world carried that science, and whereas they bottomed their ethics, he will be delightfully and profitably entertained in Tully's treatises *De officiis*'. Cf. the interesting discussion in Nathan Tarcov, *Locke's Education for Liberty*, University of Chicago Press, 1984, pp. 59-63 on 'positive revelation', and generally, the relationship between scripture and political theory in Locke. The issue of Locke's 'moral theology' is fast emerging as the latest wave of scholarship (rightfully so), and I shall be touching on aspects of this below.

needs of other men' and 'what is to be expected if each is to be trusted with the means of maintaining the humanity of all'. The 'naturalness' of the doctrine of virtue, suggests Laslett, has to do with the 'symmetry in reason' between all men.¹²⁵ Yet with self-preservation closest to their hearts, men are often partial, short-sighted beings¹²⁶ and need to be convinced not only of the rationality of right conduct, but helped in putting it into practice: 'There be two parts of Ethics, the one is the rule which men are generally in the right in though perhaps they have not deduced them as they should from their true principles. The other is the true motives to practice them and the ways to observe them and these are generally either not well known or not rightly applied'. These two parts are analogous to the distinctions Locke makes between the two parts of knowledge and the two parts of politics; moral discourse is incomplete if it does not encompass *both* of these aspects. (I shall have much more to say about this in chapter five.) To practice virtue, men must be made 'alive' to it so that they can 'taste' it, and to do this one must consider 'what is each man's particular disease, what is the pleasure that possesses him'. Far from being something that is natural, it is something one must be brought to 'practice in particular instances and so by habits establish a contrary pleasure', and only then, 'when Conscience, Reason, and pleasure go together' can reason prevail.¹²⁷ This does entail the total transformation of man, only that he 'may perhaps be a little mended', the best means of which are those practices in relation to men's habits.¹²⁸ Hence Locke's general concern with education, and more specifically with replacing the 'old

125 Peter Laslett, "Introduction" to *Two Treatises* 1989, pp. 110-111.

126 See TT I.88, II. 123, for the reasons men enter into political society. Cf. II.125, where Locke notes that everyone in the state of nature is too 'partial to themselves'.

127 John Locke, 'Of Ethick in General', MS Locke c 28, pp. 146-52, 'Ethica'; usefully reprinted in Peter King, *Life of John Locke*, London, 1830, II 122-33, and more recently in Dunn 1969, p. 192, n.1.

128 On the limited possibilities for the transformation of man's character, see STCE 101-2, 66, and examples of such transformation in the case of 'timorousness' and 'carelessness' at STCE 115, 123-27. See the discussion in Tarcov 1984, p. 129, but cf. Peter A. Schouls, *Reasoned Freedom: John Locke and Enlightenment*, New York, Cornell University Press, 1992, *passim*, which is probably the most careful philosophical reading of the STCE to date.

education' of rule following (which usually makes men 'insincere or worse' - STCE 65) with that which works on those elements of human agency which enable 'right conduct' to come easily and 'naturally'. This also explains the importance for Locke of the concepts of 'breeding' and 'civility', mentioned above in his letter to King and implicit in his definition of virtue in the STCE. This is, what he means when he talks of young gentlemen learning from interaction with the already 'well-bred'; the cultivation of social virtues such as good manners and civility that make a person 'acceptable' to his fellow men. Civility was 'that Beauty which shines through some Men's Actions, sets off all they do, and takes all they come near', something very similar to Cicero's concept of *decorum*.¹²⁹ Locke followed his description of how the works of Cicero, Aristotle, Pufendorf, and the New Testament, 'completed' men in the 'Practices of Human Offices' and taught them 'how to live', with a claim that 'true politics' consisted in 'the art of conducting men right in society and supporting a community amongst its neighbours'.¹³⁰ Thus part of the process of 'conducting men right' and supporting the community was learning the ways of virtue, which meant subordinating one's inclinations to self indulgence and acting for the common good - ie. following the dictates of natural law according to the light of reason. This is in part a divine 'calling', but Locke - just as the Christian humanists did (following Cicero) also linked it to the 'natural' calling (the *vocatus*) of the good man, who is *ipso facto* a good citizen. Though influential accounts of Locke's conception of 'calling' have been given linking it to an essentially Calvinist world picture, I have tried to present an alternative picture which places it in the context of a more civil character, such as we find in certain Christian humanist writings, as well as the emphasis placed on the imposition of civil and political

129 Cf. Cicero, DO I. 97-103, 129-137. See STCE 66-7, 93, 109, 117; on the importance of one's outward demeanour, 143, 146. Locke recommends Pierre Nicole's *Essais de morale* (which he had translated in 1676) as a good source for the study of civility.

130 'A Draft...' 1697, in Axtell ed., pp. 395-6.

'offices' through natural law that we find in Pufendorf, for example.¹³¹

I do not want to overstate Locke's bibliographical and theoretical connection with humanist literature, but it must be pointed out that there is a relationship, at least beyond the confines of Locke's days as a Westminster school boy. This is not purely a trivial interest; in part it chips away at Pocock's 'Indifferency Thesis' and thus at the supposed chasm between the languages of virtue and rights. It also helps us account for the obviously practical and civic elements of Locke's social theory which seem at odds with the pessimism of a rabidly theocentric interpretation.¹³² Furthermore, it points out that the relationship between early modern political theory and that of the sixteenth century (and before) is more complex and intertwined than has been previously thought (at least in the 'hobbeslocke' industry, to use William Connolly's wonderful neologism).¹³³ However it is only

¹³¹ For a brilliant attempt at portraying Locke's conception of 'the calling' as part of a rigorously Calvinist world picture, see Dunn 1969, pp. 222-228 and Chapter 18 *et passim*. Cf. Tarcov 1984, pp. 127-8, 136-7.

¹³² This is an issue of considerable dispute (as might be expected) in the Locke industry. See W. Spellman, *John Locke and the Problem of Depravity*, Oxford University Press, 1988, takes a more pessimistic view of Locke on sin, such that men could never attain salvation by their own efforts, or even improve themselves through education, except by the grace of God. Dunn (1969 and 1989) takes a generally similar stance. For differing views see Schouls 1992, pp. 193-203, and Marshall 1990, pp. 995-1001. One thing that is certain is that his views changed gradually over the course of his life, culminating in the two large religious works (the *Paraphrases* and the *Reasonableness*) he completed just before he died. See further below.

¹³³ This has even extended itself to scholarly work on Hobbes, which until recently almost exclusively concentrated on the seeming modernity of his 'rationalism' and individualism. In particular, some scholars have begun to read some of Hobbes' central works, like *De cive*, *Behemoth*, and *Leviathan*, as addressing not only standard sixteenth century humanist concerns such as rhetoric and liberty (critically of course), but also as explorations of the dispositions necessary to citizenship; ie. as a theorist of civic virtue. Like Pufendorf (and to some extent Locke), Hobbes didn't articulate an entire panoply of moral virtues, but mainly those (not inconsiderable) ones which teach men their duty to public ends, rather than matters of 'spiritual conscience'. The laws of nature paradigmatically ground this 'civic personality' - submission equals allegiance and obedience equals 'duty to the public' - and thus civil law, the rights of the sovereign, and the commonwealth as a whole, are only secured when duty seems to spring 'naturally'. Of course, this isn't a republican love of civic virtue, since few of the attributes Hobbes delineates equip 'his' citizens for a life of participatory government. And yet again, this is not an indifference to virtue, in fact it becomes a 'science of virtue and vice', where rather than resting exclusively on the efficacy of fear and containment, the sovereign attempts to put his 'Theorems' to practice, and reconstitute his subjects as citizens (see *Leviathan*, ed. C.B. Macpherson, Penguin, 1988, II, chap. 25, pp. 307-8; cf. and chp 31, pp. 407-8) faithfully committed to the terms of the social contract. On this see Mary G. Deitz, 'Hobbes's Subject as Citizen' in Mary G. Deitz ed. *Thomas Hobbes and Political*

really the prelude to a much deeper comparison at the conceptual level, and in particular between Locke's conception of self and political agency, his concept of liberty, and those of republican (and ancient constitutional) writings.¹³⁴

There are two accounts of liberty in Locke's political theory, not unconnected but distinct; the 'natural liberty' of man and the liberty of man 'in society'. Natural liberty is the freedom of man from any superior power on earth, and to live only according to the 'law of nature'. Civil liberty (the liberty of man in society) is to be under no other legislative power other than that established by consent, or under any 'dominion' of any will or law except that which has been enacted by a legislature to which one has entrusted one's natural liberty (TT.II.22, 57). There are a number of key concepts here which need to be disassembled. First, let us examine the basis for Locke's 'strange doctrine'(II.9) of natural liberty, involving an original freedom on the part of the people to exercise political power, which grounds any subsequent institutionalized forms of government. Locke insists (against Filmer and Royalist arguments in the context of the Exclusion

Theory, University Press of Kansas, 1990, 91-119; in the same volume, Stephen Holmes, "Political Psychology in Hobbes's Behemoth", 120-152. For a slightly different emphasis on inner transformation being a pre-condition of the possibility of authority (from a defiantly Oakeshottian perspective), see Timothy Fuller, 'Elements of Spiritedness in Hobbes', in Catherine H. Zuckert, *Understanding the Political Spirit: Philosophical Investigation from Socrates to Nietzsche*, Yale University Press, 1988, 111-125. On the relation between Hobbes' moral theory and classical rhetoric, see Quentin Skinner's 'Thomas Hobbes: Rhetoric and the Construction of Morality', in the *Proceedings of the British Academy*, 76, 1-61, 1990, published by Oxford University Press, 1991; and 'Scientia Civilis in classical rhetoric and in the early Hobbes', in Phillipson, Skinner (eds.) 1993, pp. 67-93 (cf. Pocock's comments at pp. 396-400). See also David Johnson, *The Rhetoric of Leviathan*, Princeton, Princeton University Press, 1986. More generally, see S.A. Lloyd, *Ideals as Interests in Hobbes's Leviathan*, Cambridge University Press, 1992. For a discussion of Hobbes' concept of political liberty that includes its relation to the classical republican conception he attempted so hard to efface, see Skinner's, "Thomas Hobbes on the Proper Signification of Liberty", the *Transactions of the Royal Historical Society*, 5th Series, 10, London, 1990, 121-151; and Tuck 1993, pp. 310-335.

¹³⁴ Given the gargantuan proportions of late modern Locke scholarship I shall note only those secondary works which touch upon the issues at hand. What follows below is in no way meant to be a general survey of Locke's political theory, though wherever the discussion seems to warrant some wider elaboration I shall do so as concisely as possible.

crisis)¹³⁵ that this natural liberty is not some unrestrained freedom 'for every Man to do what he lists', but is the state of being under one's own will and natural law (II.57). According to their nature, men's proper function is to act according to their reason, which is both the actual faculty of reason and the principles so discovered, which is natural law (II.6). Since man is the 'workmanship' of God, by acting in accordance with reason (which God has placed in him) and discovering the 'Law he is to govern himself by', he is fulfilling his moral obligation to God. (II.6, 63) Natural law for Locke is *supposed* to be an objective set of moral principles, and thus morality is not grounded in intersubjective customs (as most humanists argued; this is a horizon which is impenetrable between natural law and humanism), since God and not man was the author of moral values. According to the convention of seventeenth century natural law theory (particularly according to Grotius), the fundamental law of nature was self-preservation, since God's design for the world gives us duties and tasks to fulfill; the fundamental point here is that natural law theory always *begins* with duties and then moves to rights - ie. the rights that are necessary in order to fulfill our duty. Locke is consistent with other natural law writers in insisting that rights are not to be understood as trumps, but as being granted purposively.¹³⁶ Locke is no different except to highlight as well as the fundamental natural law being self-preservation, the preservation of *mankind*; 'sharing all in one Community of Nature, there cannot be supposed any such *Subordination* among us, that may Authorize us to destroy one another, as if we were made for one anothers uses, as the inferior ranks of Creatures are for ours. Every one as he is *bound to preserve*

135 On the practical context of Locke's concept of natural liberty, see Richard Ashcraft, *Revolutionary Politics and Locke's Two Treatises of Government*, Princeton University Press, 1986, pp.181-285; and James Tully 'Liberty and natural law', and 'Political Freedom' in *An approach to political philosophy: Locke in contexts*, Cambridge University Press, 1993, pp. 281-323.

136 On the seventeenth century rights context and especially Grotius, see Tuck 1979, pp. 58-82 and 1983, chp. 5 passim; Tully 1993, pp. 305-7 627. On rights as 'trumps' see Ronald Dworkin, *Taking Rights Seriously*, Cambridge Mass., Harvard University Press, 1977.

himself, and not to quit his Station willfully; so by the like reason when his own Preservation comes not into competition, ought he, as much as he can, *to preserve the rest of Mankind'*.(II.6) Following from this duty is the right to preserve one's life by exercising political power individually through the execution of the law of nature in punishing (natural) law-breakers (II.4,6,7) and protecting oneself and others from starvation. (see II.chapter V *et passim*; but especially section 27 for the famous 'enough and as good left in common for others' proviso which regulates the exercise of labour power and possession in the state of nature). Concomitant with this right is the presupposition that people are *capable* of exercising this kind of political power; this includes knowing and interpreting natural law, judging controversies concerning oneself and others, and executing these judgements via the proportionate punishment of any transgression so judged (II.7-12). Three further presuppositions flow from this; that people appear to be naturally self-governing (cf. the discussion in Pufendorf), naturally free (because they are not subject to the will of others), and naturally equal (in that they each have the duty and right to exercise political power (II.4, 7). I will discuss the nature of these presuppositions in more detail below, especially with regard to capabilities.

Prior to and independent of any governmental institutions people are able to (somewhat) govern themselves, and it is upon this fact that institutionalized forms of government derive their original powers (II. 87-9).¹³⁷ These forms of government arise because of the problems encountered in the state of nature, where 'though the Law of Nature be plain and intelligible to all rational Creatures', men are 'biassed' by their own interest, and 'ignorant for want of study of it', and thus have a tendency to exempt themselves from the application of the Law (II.124). In general, the state of nature 'wants' of three key elements: an established, settled, and known law, a known and '*indifferent Judge*',

¹³⁷ This element of Locke's theory informs much of Tully's interpretation of Locke's political theory; see 1993 *passim*, and particularly at pp. 319-23.

and a 'Power to back and support the Sentence when right, and to give it due Execution' (II.124-6). Combined with the historical and sociological phenomena of disputes over property rights caused by increasing population, the increased appropriation of land, the introduction of money, the division of labour, and the intensification of commercial activity (II. 36-8, 40, 48), men are 'driven' to set up institutionalized forms of government:

because no *Political Society* can be, nor subsist without having in it self the Power to preserve the Property, and in order thereunto punish the Offences of all those of that Society; there, and there only is *Political Society*, where every one of the Members hath quitted this natural Power, resign'd it up into the hands of the Community...And thus all private judgement of every particular Member being excluded, the Community comes to be Umpire, by standing Rules, indifferent, and the same to all Parties (II. 87).

However, unlike the near-absolutist theories (such as Pufendorf's and Locke's own early work the *Two Tracts*) this 'resignation of power' did not entail the effacement of those capabilities of citizens presupposed in the state of nature, that is, to act and judge politically. This is because the people do not wholly alienate their natural 'power', but entrust it to the monarch or parliament. There are a number of good reasons for doing this (see II. 90, 93, 106) but the main one is just that it is a matter of fact that people do not alienate their natural political power; 'The people generally ill treated, and contrary to right, will be ready upon any occasion to ease themselves of a burden (ie. the lousy tyrant - D.I.) that sits heavy upon them' (II.224).

The key to this process are the complex concepts of trust and consent.¹³⁸ The two natural powers of man - the right to property and labour for his preservation and the power of punishing transgressors of natural law - are consented to be entrusted to government. Both powers are thus regulated in accordance with the common good of

¹³⁸ John Dunn has provided the most illuminating and sophisticated analysis of these concepts, to which I am greatly indebted. See John Dunn "Consent in the Political Theory of John Locke", *The Historical Journal*, X, 2, July 1967. Dunn 1969, chapter 10, 13, *et passim*; 1984, chapter 2 *et passim*; "The concept of 'trust' in the politics of John Locke", in Richard Rorty, J. B. Schneewind, Quentin Skinner, *Philosophy in History: Essays on the historiography of philosophy*, Cambridge, Cambridge University Press, 279-301. See also J.W. Gough, *John Locke's Political Philosophy*, Oxford, Clarendon Press, 1950, chapter 7.

individual and collective preservation, the latter taking priority if and when the two ever come into conflict: 'the *first and fundamental positive Law* of all Commonwealths, is the *establishing of the Legislative Power*; as the *first and fundamental natural law*, which is to govern even the Legislative it self, is the *preservation of the Society*, and (as far as will consist with the publick good) of every person in it'(II. 134).¹³⁹ Here, to put it in modern terms, the good is before the right with regard to the basis upon which political power is both exercised and judged. Ultimately all legitimate authority is in some sense conferred by God since the legislative power of the law of nature rests with him. On top of this is placed a theory of consent which also helps explain both the setting up and legitimation of political societies and their governments (II. 95-9).¹⁴⁰ Locke identifies two kinds of consent; tacit and explicit ('express'). The latter is most important to the process of legitimation since it is only by the making of some overt sign of agreement - a 'positive Engagement and express Promise' - that the citizen becomes bound to the determination of the majority. (II.95-9; cf.119, 121) The majority then places the authority into specific hands, whether a democracy or whatever, and thus it becomes the supreme power of the commonwealth grounded upon the natural powers of its citizens. This power is further transferred to the executive and 'Federative', the former comprehending the '*Execution of the Municipal Laws of the Society within its self*', and the latter the '*management of the security and interest of the publick without*'. Here again we find Locke relying on the important distinction between theory and 'prudence'. The 'Federative' power, since it is much less capable of being directed by 'antecedent' or standing positive law - in its dealings with 'Foreigners' for example - must necessarily be left to

139 Cf. II. 171: 'the *end and measure of this Power*, when in every Man's hands in the state of Nature, being the preservation of all of his Society, that is, all Mankind in general, it can have no other *end or measure*, when in the hands of the Magistrate, but to preserve the Members of that Society in their Lives, Liberties, and Possessions; and so cannot be an Absolute, Arbitrary Power over their Lives and Fortunes, which are as much as possible to be preserved'.

140 Dunn 1967 et passim; 1969 129-143; 1984 49-52.

prudence and the 'Wisdom of those whose hands it is in, to be managed for the publick good' (II. 147; cf. 144, 145, 146, 148). Tacit consent, as it implies, was less direct than this, being based mainly on the mere presence of someone in an established state taking advantage of its resources (II.122, 119). This simply adds to the scope of the legitimate exercise of executive power to include just about everyone inside a state's borders (including any 'itinerant aliens') and provide a rationale for everyone to obey the law of the land. What distinguishes the two is the unequivocal nature of the commitment to obey the legitimate political authority expressed in the 'explicit' compact. Of course, as Professor Dunn has shown, the whole discussion of when and where this actual express consent took place is rather murky, as is the general plausibility of there being such a thing as 'tacit' consent.¹⁴¹ However the important claim is that only the agreement of adult (male) human beings can give another person, or group of persons, political authority over them; this is the only means whereby rulers of civil society have rights to political authority. Locke's consent argument establishes the principle of why governments are subject to resistance if they abuse their power; the centrality of the notion of trust provides the ground upon which power is exercised properly for the public good, or betrayed.

It is important to emphasize the contours of the relation between political authority and the public good in Locke. Political power is exercised on the grounds of people's delegation of their original natural powers and liberty in order to protect their 'Lives, liberties and estates'. It is also grounded in a relationship of trust between the governed and their governors, that is, the laws made and executed are in accordance with the common good (natural law), that no one is exempt from these laws (including the governors), and that any change in the laws cannot be made without the consent of the majority

¹⁴¹ John Dunn, "Consent in the Political Theory of John Locke", *The Historical Journal*, X, 2, July 1967, 153-82; 1969, pp. 131-142; 1984, pp. 49-50.

through their representatives: 'Their (the Legislative power - D.I) in the utmost Bounds of it, is *limited to the publick good* of the Society. It is a power that hath no other end but preservation, and therefore can never have a right to destroy, enslave, or designedly to impoverish the Subjects' (II.135; see 140 on changing laws; 'what property have I in that which another may by right take, when he pleases to himself?'). We must not however, forget the other contour of political authority that permeates all of Locke's political theory, which is that power which the government has beyond the letter of the law to protect and enhance the public good. This is in part what Locke calls the 'art of government', which I shall turn to below. But here I want to mention one aspect of this power, which is the role of the 'prerogative', discussed at chapter XIV of the *Two Treatises*. In it he defines this power as the 'Power to act according to discretion, for the publick good, without the prescription of the Law, and sometimes even against it...*Prerogative is nothing but the Power of doing publick good without a Rule*' (II.160, 166). In a real sense, men and women were entrusting their fate to a power that could not be *strictly* regulated - without a specific institutional locus (except that it was in the hands of the sovereign) and with its formal legitimacy based only on the criteria that it be used for the public good. Locke allows for a fair amount of leeway; 'Great mistakes' and 'many wrong and inconvenient laws' will be tolerated by the people, and only a 'long train of abuses, prevarications, and artifices, all tending the same way' and easily visible will lead to a 'state of war' between the people and their governors. (TT, II. 20, 230, 225) Public authority exercised according to constitutional limits was indispensable for the protection and enhancement of the public good, but it was potentially equally so beyond these limits. And this is because in the end, Locke was steadfastly insistent that government could not be a set of practices resting on frame of abstraction, but rather, on men; 'Allegiance is neither due nor paid to Right or Government which are abstract

notions but only to persons having right or government'.¹⁴² In this sense, the *Two Treatises* is far from being a strictly constitutionalist tract, and Locke's political theory far from being one wholly concerned with nailing down the limits of government power.

The ambiguity of Locke's constitutionalism is embodied in the concept of trust we have examined above in relation to the express laws of the commonwealth, as well as the prerogative of the sovereign. However it comes into sharp relief when we turn to Locke's justification of revolution. The measure of the use of this delegated (entrusted) power rests in its accordance with the public good, the contravention of which provides the content of the term 'abuse' applied to any such action. People trust their leaders to do the right thing, and even go so far as to tolerate all sorts of inconveniences and mistakes towards that end (implied at II.168; explicit at 223, 225), but in the last instance they retain as individuals, their duty and right to judge whether or not the sovereign has lived up to their trust in him: 'the Legislative being only a Fiduciary Power to act for certain ends, there remains still *in the People a Supreme Power* to remove or *alter the Legislative*, when they find the *Legislative* act contrary to the trust reposed in them...And thus the *Community* perpetually *retains a Supream Power* of saving themselves from the attempts and designs of any Body, even of their Legislators, whenever they shall be so foolish, or so wicked, as to lay and carry on designs against the Liberties and Properties of the Subject' (II.149). Locke often speaks about such abuses as 'invasions' of the liberties and properties of the people contrary to their trust, and as such, the people are absolved from obedience and may resist and even kill these 'noxious creatures'(II. 123, 131, 231; cf. 222) Whether the invasion of one's liberties and the

141 MS Locke c 28, fo. 85v; Dunn 1969, p. 122 n.2; 1984, p. 52. Pocock points out that 'the subject-matter of humanism' is the 'government of men', but that for the most part, modern theorists are perturbed when the history of a political discourse 'wanders from the high road of right and authority' and constantly seek to bring it back under a 'juristic paradigm'. It strikes me that Pocock has done exactly this whenever he encounters aspects of Locke which do not fit into his own paradigm of early modern political discourse. See Phillipson and Skinner 1993, pp. 394, 398.

common good is by an external force or by a corrupt magistrate is no matter, the two are analogous instances of oppression and should be, indeed must be, resisted.¹⁴³ It is important to recognize the radically individualistic tenor of this claim, for it is the people, that is 'every Man', who are judges of whether or not this trust has been forfeited. (II. 240-2) 'The people' as a whole should execute this judgement in removing unjust rulers and reconstituting the government, though if this fails each individual must judge as best he can, 'wherein the Appeal lies only to Heaven'. (II.242)¹⁴⁴ Upon the forfeiture of this power by the deposed governors, it reverts back to society, 'And the People have a Right to act as Supreme, and continue the Legislative in themselves, or erect a new Form, or under the old form place it in new hands, as they see good'. These are the last words of the *Treatises*.

Yet is this not a recipe for an anarchy of partial individual judgements, as absolutists and conservatives asked throughout the Restoration, and opponents of popular sovereignty continue to ask today?¹⁴⁵ Locke's answer to this is complex and, one could argue, startlingly insightful. There are two main reasons why a theory of popular sovereignty will not lead to frequent revolution. The first has to do with the inherent conservatism of the people, which Locke knew only too well, that is, since they were hardly bothered to 'amend the acknowledg'd Faults, in the Frame they have been accustom'd to' they were also (alas), loathe to quit their 'old Forms' of government at all (II.223; the question is considered explicitly by Locke at II. 203-10 and 224-30). The other main reason has to do with their own partiality and self-interest. This is, that people will not revolt until either oppression affects the majority, or it touches an individual or a minority but it is perceived to threaten everyone (this is in part a calculation that a revolt on this basis would win). (II. 208-10, 230) Locke turns round the

143 On this argument's affinity with the context of radical whig political theory see Ashcraft 1986, pp. 395-406.

144 But cf. Ashcraft 1986, pp. 576-7 who says the returned power is essentially corporative.

145 Cf. the works of Hayek, Oakeshott, and most recently, Ferdinand Mount, *The British Constitution Now*, London, Heinemann, 1992.

traditionally conservative emphasis on habit and partiality to restrain his right of revolt and to suit his own theoretical needs. Moreover, the threat and practice of revolution is the best way of restraining rebellion because it acts as a constant reminder to rulers to keep their interests and duty in line with the public good (II. 226, cf.210). Revolution, as Professor Dunn has pointed out, is not fundamentally an act of revenge but an act restoration and revival; 'For when Men by entering into Society and Civil Government, have excluded force, and introduced Laws for the preservation of Property, Peace, and Unity amongst themselves; those who set up force again in opposition to the Laws...bring back again the state of war' (II. 226).¹⁴⁶

Locke's key insight here has to do with the nature of civil society. We examined its fundamental basis above; it arises as a result of the inconveniences of the state of nature and sets the ground for the execution of impartial judgement - by known laws and the establishment of a Legislative power. Following from the purely analytical construct of the state of nature¹⁴⁷, civil society appears as a historical remedy for precisely these problems. This is how human beings find themselves subject to the additional coercive powers of political authorities. However it can only ever be a partial remedy since governments are made of men and not abstractions and thus cannot wholly purify themselves of their own partiality, which tends to intensify when close to power ('by the pretence they have to Authority, the temptation of force they have in their hands, and the Flattery of those about them' II.226). Every where Locke looked and travelled (especially in France¹⁴⁸) seemed to confirm this, since most

¹⁴⁶ Dunn 1984, pp. 55-6.

¹⁴⁷ See TT, II. 103: 'at best an Argument from what has been, to what should of right be, has no great force'. On whether or not the state of nature is simply an analytical tool or a proposition based on historical evidence and anthropology, see Richard Ashcraft, 'Locke's State of Nature: Historical Fact or Moral Fiction?', in John Locke: Critical Assessments Vol III, ed. Richard Ashcraft, Routledge, 1991, pp. 212-241; and the interesting discussion by Ruth W. Grant, 'Locke's Political Anthropology and Individualism', *The Journal of Politics*, 50, 1988, pp. 42-63, especially at 48-50.

¹⁴⁸ See the discussion in Ashcraft 1986, pp. 204-206.

were absolute monarchies and thus were not legitimate in any sense *a propos* the law of nature. Though trust was essential to Locke's politics, he insisted that it could never be given irrevocably because it was inevitably broken and abused. It is was the duty and right of individuals and the community to judge whether or not and when such abuse occurred; the perpetual possibility of rebellion and the actual practice of revolution grounds freedom and can never be wholly excluded as a possible means of collective and individual political agency, given the inherent partiality of men and the institutions they set up. Thus paradoxically, in order for political power to serve the purposes for which men need it, and in order to make possible the benefits of peace ('Safety, Ease, and Plenty'), it must necessarily be open to abuse. (II. 101)¹⁴⁹ Ultimately this is grounded upon the deep structures of Locke's Christian belief, and accounts for the unique way in which through the apparatus of the law of nature Locke seems to occupy simultaneously vantage points grounded in both faith and scepticism. Men were dependent upon God, and the law of nature, enforced *via* the avenging power of god and the belief in the immortality of the soul, enabled the maintenance of a society. But God's laws and sanctions could not be simply inferred from the properties of the natural world, or deduced from the existent traditions of society, or be based on some kind of universal agreement - of which it was laughably obvious there could never be.¹⁵⁰ What is striking about Locke is that he came to doubt even the ability to demonstrate the immortality of the soul and the existence of heaven of hell, which undermined further the motivation and obligation of people to live according to the moral code since they could never be certain that the rewards or punishment of heaven and hell were attached to it.¹⁵¹

Perhaps not surprisingly Locke has no straightforward answer to the

149 Cf. Dunn 1984b, p. 296.

150 John Locke, *Essays on the Law of Nature*, ed. W. Von Leyden, Oxford, Clarendon Press, 1954, pp. 128-9, 166-7. See the helpful discussion in Michael Ayers, *Locke: Volume II: Ontology*, London, Routledge, 1991, pp. 184-202.

151 See Ayers 1991, pp. 191-2; and Tully 1993, pp. 312-314 for further discussion.

question of how far men can be trusted, it is basically left as a matter for 'the people'. However we know at least one important aspect of Locke's theory which can help us here. Locke presumes that there is a general set of capacities or dispositions on the part of the individuals of a community to act politically, given his theory of popular sovereignty. This is partially a theoretical presumption - or a fiction, as I mentioned above - but for Locke it is also in important ways a practical possibility, though one he is never overly sanguine about. The grounds for these capacities lie in a (roughly) shared set of practices; be they institutions, the practical structures of material interests, or some form of political interaction or cooperation. For Locke, the English people even had an historic source for such a political capacity - the ancient constitution. Like many other seventeenth century theorists, Locke insisted that natural rights were also historical rights, ie. those guaranteed in the ancient constitution. These rights preceded the Norman conquest and its imposition of a feudal law by the right of conquest, which according to Locke's theory in the *Two Treatises*, was always (without the consent of the people) an illegitimate form of political power (II. 175-6, *vide* Chapter XVI *et passim*). The ancient constitution was the political birthright of the English people, encompassing the common law, parliament, local government, and particular forms of property rights and rights of the person.¹⁵² The precise nature of the kind of disposition for political participation this bequest entailed varied amongst radical theorists in the seventeenth century, but Locke is conceptually similar to republicans such as Algernon Sidney and John Milton (and publicly so after his death) by making the connection explicit. Though a burden more often than not, political participation is a duty and a right, and political virtue requires a genuine commitment to the public good in fulfilling the role of impartial

¹⁵² See Laslett's informative note to II.175 in *Two Treatises*, pp. 384-5. On the ancient constitution as it was perceived by writers such as Locke, Sidney, and Milton, see J. G. A. Pocock, *The Ancient Constitution and the Feudal Law*, Cambridge, Cambridge University Press, 1957, pp. 53-4, 148-50. I am very grateful to Professor Tully for helpful correspondence on this point, as well as to Professor Dunn for a very useful discussion.

adjudication as best one can.¹⁵³ This commitment is usually brought into sharp focus as events come to involve a confrontation of matters of direct personal concern, which in principle does not restrict its exercise to any one class or 'humour'. This includes judging political power not only as it is known according to established law and conventions, but also with regard to the nature of prerogative and the scope of legislative and executive prudence according to the 'art of government'; both aspects of political power are present in the theoretical and practical structure of civil society. This is not an inconsiderable task, given the fact that the practices and institutions engendered by one's trust in turn act upon and influence the very capacities that according to one's duty one uses to judge their abiding fidelity to the public good. It is a significant implication of Locke's theory that where such capacities do not exist as a result of either the lack of some shared practices of political cooperation, or general cognitive underdevelopment, the presumption of capabilities is entirely gratuitous. This is a very important implication which I shall pick up on again in chapter 5, along with the nature of the practices Locke thinks grounds these political capacities of judgement and action.

The acceptance of the ineluctability of conflicts of judgement and the need for legitimate political authority to be structured in accordance

153 See Locke's letter to Edward Clarke 17 October 1690: 'I hope they [political affairs in general] continue on in the same course since my coming away, and the zeale and forwardness of you your selves makes it needless for us without doers soe much as to thinke of the publique which is the happyest state a country can be in, when those whose businesse it is, take such care of affairs that all others quietly and with resignation acquiesce and thinke it superfluous and impertinent to medle or beat their heads about them...However I will be sure to come to town either to prevent or prepare for the jouny whenever I am sent for'. *The Correspondence of John Locke* IV, Oxford, Clarendon Press, 1979, p. 148. Referred to in Dunn 1984b, p. 297. Cf. Hobbes on the value of political engagement: 'some will say, That a Popular State is much to be preferr'd before a Monarchiall; because that, where all men have a hand in publique businesses, ther all have an opportunity to shew their wisdom, knowledge, and eloquence...[But]...To see his opinion whom we scorne, preferr'd before ours; to have our wisdom undervalued before our own faces...to hate and to be hated, by reason of the disagreement of opinions; to lay open our secret Counsells, and advises to all, to no purpose, and without any benefit; to neglect the affaires of our own Family: These, I say, are greivances'. (*De Cive*, The English version, ed. Howard Warrender, Oxford, Clarendon Press, p. 136.

with this fact, is also evident in Locke's argument for toleration.¹⁵⁴ There are two levels to Locke's influential theory which I can only touch upon here. Firstly, given the truth of Christian religion and the central duties of man being a condition of his relationship with the deity, individuals cannot, even if they wanted to, alienate their sovereignty over their religious beliefs, nor can a particular set of beliefs be coercively grafted onto them by some sovereign power (see the summary of reasons at LoT 26-8). The attempt to do so only generates civil unrest and oppression, which in fact it had throughout the seventeenth century. Locke makes a strong claim that religious uniformity had mainly been a means of domination for church and political elites (the 'insatiable desire of Dominion' over a 'giddy Multitude' LoT, p. 55). Though the magistrate can have no authority over the care of man's soul, he does have authority for the protection of 'Civil Interests' - life, liberty, health, the indolency of body, as well as men's 'outward things' such as lands, houses, and money. But as in the case of Pufendorf, this juridic bracketing of government from being concerned with men's souls does not mean it is unconcerned with their general disposition or moral capacities. Indeed he implies in the *Letter* (and subsequent replies) that it is the duty of every Christian (whether magistrates, churchmen, or layman) to be concerned to uphold right conduct and root out 'immoralities' (such as fornication, uncleanness etc; see LoT 24-5).¹⁵⁵ Religious beliefs and practices cannot

154 John Locke, *A Letter Concerning Toleration*, ed. James H. Tully, Hackett, 1983. References to this work shall hereinafter be placed in parenthesis (LoT, page number) in the text following the quotation.

155 This is even more pronounced in the *Third Letter on Toleration* (1692) where Locke writes that 'corrupt manners' and debauchery are properly a concern for magistrates, and who should act on them via 'punishments to restrain and repress them', in *The Works of John Locke II*, London, 1768 (8th ed.). Cf. p. 635: 'if lawmakers, in making laws, did not direct them against the irregular humours, prejudices, and passions of men, which are apt to mislead them; if they did not endeavour, with their best judgement, to bring men from their humours and passions, to the obedience and practice of right reason; the society could not subsist...But in matters of religion it is quite otherwise'. Cf. his original memoranda on toleration written for Shaftesbury in 1667: 'however strange it may seem...the law-maker hath nothing to do with moral virtues and vices...any otherwise than barely they are subservient to the good and preservation of mankind under government'; cited in H.R. Fox Bourne, *The Life of John Locke*, 2 volumes, London, 1876, i, p. 181. For an interesting discussion on the

fundamentally contravene the public good, and if they do, they should be proscribed; hence Locke's unequivocal rejection of tolerance for Catholics and atheists, who in the first instance owed allegiance to a foreign power and could not be bound to civil society, and in the second, owed allegiance to no one and thus were equally untrustworthy and subversive of the public good (LoT, p. 50-1) The argument went the other way as well; the public good could be disrupted by policies of uniformity that stripped dissenters of their 'properties', i.e. their legal, political, and religious rights (LoT 50). If an individual judged a law to be both injurious to the public good as well as to his conscience, he had a right to revolt (as laid out in the *Two Treatises*): 'What else can be expected, but that these men, growing weary of the Evils under which they labour, should in the end think it lawful for them to resist Force with Force and to defend their Natural Rights?' (LoT 49, 55 cf. 46, 49, 52, 55). In the end, the only thing that can guarantee the natural right to 'Liberty of Conscience' against religious persecution is the counter-threat and practice of revolution.¹⁵⁶ If an individual judges a law to be in the public interest but contrary to his own conscience, i.e. within the 'Verge of the Magistrate's authority', he must either obey that law or abstain from it and accept any subsequent punishment (LoT 48). This is not an inconsiderable point. An effective political order is a precondition of there being 'liberty of conscience', and thus no 'opinions' or actions contrary to the moral rules necessary for the 'safety and security' (46) of civil society (which secures the 'things of this world' - LoT 48) are to be tolerated (cf. LoT 49, 46). Indeed, anyone or any 'sect' that even considers doing so is literally mad (49; cf. 54 for what kind of things this might include).¹⁵⁷ Thus

development of Locke's ideas on toleration see Richard Tuck, "Hobbes and Locke on Toleration", in Deitz ed., 1990, pp. 153-171.

¹⁵⁶ Tully 1993, pp. 61-2.

¹⁵⁷ Compare a contemporary version of this sense of incommensurability in Richard Rorty, 'The Priority of Democracy to Philosophy', in *Objectivity, Relativism, and Truth Philosophical Papers I*, Cambridge University Press, 1991, pp. 175-196, at pp. 187-8; 'we heirs of the Enlightenment think of enemies of liberal democracy like Nietzsche or Loyola as, to use Rawls' word, "mad". We do so because there is no way to see them as fellow citizens of our

contrary to what Locke says - that the 'business' of laws (of civil society) does not concern the truth of 'Opinions' (46) - there are a set of opinions concerning the nature of civil society and the regulation of 'things of this world' that are embodied in the existence and practices of government. Locke avoids the whole issue by saying that if government is 'faithfully administered...and...directed to the publick good' it will seldom happen that there is ever a conflict between particular value and the 'objective value' of the magistrate's authority (48). This implies that despite Locke's seeming insistence on a strict demarcation between the 'governments' of religion and civil authority, there are moments in the process of political government when it acts both as a 'Civil and Domestick Governor' of the 'outward and inward Court' (LoT 46). In other words, that there is a particular account of the person and relation to 'self' which is presupposed in the theory, capable of making the epistemological and practical distinctions which Locke presses home so forcefully.

constitutional democracy, people whose life plans might, given ingenuity and good will, be fitted in with those of other citizens. They are not crazy because they have mistaken the ahistorical nature of human beings. They are crazy because the limits of sanity are set by what we can take seriously. This, in turn, is determined by our upbringing, our historical situation'. Cf. the discussion of Locke's views on madness in relation to the molding of individuality in his theory as a whole in Uday Singh Mehta, *The Anxiety of Freedom: Imagination and Individuality in Locke's Political Thought*, Ithaca and London, Cornell University Press, 1992, chp. 3 *passim* (although he seems to have missed this rather obvious instance of it).

Chapter 5: John Locke and the government of men

5.0 Juris-prudence

Earlier on I noted that for Locke, there are two necessary components to moral discourse: what morality consists in, and how to get men to practice it. This duality operates on two other levels I want to mention here as a way of introducing the main concerns of this chapter. In his *An Essay Concerning Human Understanding* Locke, following Bacon and Aristotle, lays out the division of the sciences by making a distinction between general theoretical knowledge, and particular practical knowledge (though not isomorphic with 'Theory' versus 'Non-theory'). The end of the first kind of knowledge is the 'bare speculative Truth', i.e. the knowledge of things as they are in their own 'proper Beings, their Constitutions, Properties, and Operations' (EHU 4.21.2). The end of the other kind of knowledge relates to what man as a 'rational and voluntary Agent' ought to do to achieve whatever end, but especially 'for the attainment of Things good and useful'. This includes 'Ethicks', which is the 'seeking out those Rules, and Measures of humane Actions, which lead to Happiness, and the Means to practice them', not a process of discovering 'Truth' but 'Right, and a Conduct suitable to it'. (EHU 4.21.3) Thus in the natural sciences, man seeks to understand things as they really are through deep contemplation, and in the 'practical' sciences, he is to try and live a certain way, and to make certain things, where understanding is only in relation to acting.¹ Politics is a practical knowledge which is further subdivided between its own theoretical and empirical-prudential elements. Political theory, like geometry, is a kind of general

1 But note that in the context of moral reasoning, the idea of 'Man' is constructed and employed in a way different than for 'naturalists', namely that the the natural species of a 'moral Man' is irrelevant to his moral obligations (see 3.11.16). Thus, as Ayers (and others) points out, Locke is less concerned with an Aristotelian conception of ethics as a quasi-biological study of man's nature as a 'rational, social species of animal', and more one of an ethics derived from an *a priori* law for all rational beings (though with a hefty hedonistic account of moral motivation to boot). See the helpful discussions in Michael Ayers, *Locke: Volume II: Ontology*, London, Routledge, 1991, pp. 188-9; and James Tully, *A Discourse on Property: John Locke and his Adversaries*, Cambridge University Press, 1980, p. 11.

knowledge, since it involves 'a demonstrative certainty' via a true idea of God and his relations with his creation, though this 'certainty' would, in the end, prove elusive to Locke. Political prudence is something else, being based on matters of fact and history and therefore, of a particular nature: 'The well management of public or private affairs depending upon the various and unknown humours, interests, and capacities of men we have to do with in the world, and not upon any settled ideas of things physical, polity and prudence are not capable of demonstration'.² By definition, this type of knowledge cannot be known *a priori*, since men's actions, though subject to all sorts of determinations, are not wholly so, and are in large part contingent and 'free'.³ Thus predictive knowledge of human behaviour - just as the knowledge of whether or not 'rhubarb will purge or quinquina cure an ague' - rests on history, experience, and probability. In chapter four we examined the grounds of Locke's political theory in the *Two Treatises* and the *Letter Concerning Toleration*, which as works of political theory set out the general moral framework within which lawmakers frame law according to the circumstances, and citizens judge the extent of their duties and rights in relation to these laws and the law of nature. In this chapter, I want to turn to that other part of moral discourse and politics: what Locke called 'the art of governing men right in society'.⁴ I think the nature of this 'art' was well described by Michel Foucault, and is worth quoting at length:

2 MS. Locke, f.5 fols 77-83.

3 The question of whether or not Locke holds a 'determinist' or 'compatibilist' or 'libertarian' position with regard to the issue of 'free will' is a complex one, about which there seems to be little agreement. The crucial discussion takes place in the EHU at 2.21 'Of Power', which I shall touch upon below; I take it generally that Locke is not a determinist. Cf. Isaiah Berlin, *Four Essays on Liberty*, Oxford University Press, 1969, pp. 64-5, 104; John Passmore, 'The Malleability of Man in Eighteenth-Century Thought', in *Aspects of the Eighteenth Century*, ed. Earl R. Wasserman, Baltimore 1965, especially pp. 23-6 (both of whom hold Locke to be a determinist). See the careful discussion by Peter Schouls, *Reasoned Freedom: John Locke and Enlightenment*, Ithaca and London, Cornell University Press 1992, pp. 126-144 (who argues that Locke is not a determinist).

4 John Locke, "Draft of a letter to the Countess of Peterborough" 1697, in James L. Axtell, *The Educational Writings of John Locke*, Cambridge University Press, 1968, p. 395. See also "Some thoughts concerning reading and study for a gentleman" 1703, p. 400.

Government is defined as a right manner of disposing things so as to lead not to the form of the common good, as the jurists' texts would have said, but an end which is 'convenient' for each of the things that are to be governed. This implies a plurality of specific aims: for instance, government will have to ensure that the greatest possible quantity of wealth is produced, that the people are provided with sufficient means of subsistence, that the population is enabled to multiply, etc. There is a whole series of specific finalities, then, which become the objective of government as such. In order to achieve these various finalities, things must be disposed - and this term, *dispose*, is important because with sovereignty the instrument that allowed it to achieve its aim - that is to say, obedience to the laws - was the law itself; law and sovereignty were absolutely inseparable. On the contrary, with government it is a question not of imposing law on men, but disposing things: that is to say, of employing tactics rather than laws, and even of using laws themselves as tactics - to arrange things in such a way that, through a certain number of means, such and such ends may be achieved.⁵

For the moment, let us leave aside the different nuances and subtleties that Foucault is stressing over and above the texts he is actually examining, since I will turn to a more detailed examination of this in a later chapter. Here I want simply to note the elision of law in relation to the (political) power of 'disposition' that Foucault (typically) identifies. The direction and focus of the kind of power implicit in this 'art', operating at times beyond the exact letter of the law, and thus connected in rather shadowy ways to the maintenance of the public good, appears in part to be 'working on' the very abilities (the 'humours, interests, and capacities of men') Locke assumes to be fundamental to the political judgement of the citizens of civil society, the capacities they must use to judge the legitimacy of that very art itself.

Because the art of governing is linked to human history and the particular knowledge of how men's capacities and humours actually work, it is linked to questions of how men 'govern' themselves, and thus there is a deep connection between the principles of political action and personal conduct. Though it might be a 'platitudinous axiom of *contemporary* moral consciousness' that this relation is one of incessant asymmetry, it is indispensable as a framework for understanding early modern attempts to ground theoretical axioms in

5 Michel Foucault, "Governmentality", Lecture given at the College de France, February 1978, in *The Foucault Effect: Studies in Governmentality*, ed. Graham Burchell, Colin Gordon, Peter Miller, Harvester Wheatsheaf, 1991, pp. 87-104.

practical conduct.⁶ Thus, we need to examine how Locke's two kinds of political knowledge interact, if they do at all. Does this 'art of government' and its relation to political theory tell us anything important about Locke's concept of liberty and his conception of self? To do this I will turn from the political writings which set out the formal political prerequisites of Lockean civil society - which was the means to ground the fundamental liberty of undistorted choice⁷ - to their more subterranean underpinnings in the *Essay on Human Understanding*, and then leap to their specific particularity evident in his description of the 'art of government' and especially in his writings on the 'reformation' of the poor.

5.1 Foundations

To begin, allow me to sketch a basic picture of Locke's (now famous) conception of self. '*Self*', he argues, is 'that conscious thinking thing...which is sensible, or conscious of Pleasure and Pain, capable of Happiness and Misery, and so is concern'd for it *self*, as far as that consciousness extends' (EHU 2.26.17). 'Person' is a 'Forensick Term' which 'appropriates' actions and belongs only to 'intelligent agents capable of a Law, and Happiness and Misery' (2.26.17). This is to say, a 'person' is constituted by consciousness of voluntary actions actually performed, hence the rather bizarre (and unconvincing) example that 'Socrates Sleeping' is not the same *person* as 'Socrates Waking', since the self is located wholly in consciousness and not in substance of any kind (2.26.19). The self extends out from a core region which is capable of uniting an existence and actions past and present, and at its most coherent and unified moments it is a condition of awareness

6 The groan is Dunn's (*The Political Thought of John Locke: An Historical Account of the Argument of the Two Treatises of Government*, Cambridge University Press, 1969, p. 157) the emphasis is mine.

7 EHU 2.21.50: 'That in this state of Ignorance we short-sighted Creatures might not mistake true felicity, we are endowed with a power to suspend any particular desire, and keep it from determining the will, and engaging us in action. This is *standing still*, where we are not sufficiently assured of the way: Examination is *consulting a guide*. The determination of the will upon enquiry is following the direction of that Guide: And he that has a power to act, or not to act according as such determination directs, is a *free Agent*'.

concerning (above all) pleasure and pain and 'that that *self*, that is conscious, should be happy' (2.27.16, 26). The Lockean self has to 'gather' itself against fragmentation amongst competing passions and influences, moved to do so by the presence of an 'uneasiness' for happiness, which seems at times to be no more than a concern to avoid pain, and yet something more than merely the means to self-preservation. The key seems to lie in the nature of man's liberty.

The account of liberty in the *Two Treatises* which we have examined above is analogous to a more detailed argument presented in the *Essay*. Locke tells us that the business of the *Essay* is 'not to know all things, but those which concern our Conduct.' that

if we can find out the Measures, whereby a rational creature put in that State, which man is in this World, may, and ought to govern his Opinions, and Actions depending thereon, we need not be troubled that some other things escape our knowledge.. (1.1.16)

Two themes are important here; the general limitation of certain knowledge capable of being ascertained, and that the knowledge we *should* and can obtain is that which deals with our actions and general conduct. It is however, a claim that is shrouded in ambivalence, as so many commentators have pointed out. The main problem was that though human beings could probably know when they were not behaving as they should, what they could never really know, at least by their own reason, were the 'real' overpowering reasons for not acting badly - that is, an omniscient deity with the capacity to administer extra-terrestrial punishments and rewards. Without the positive law of God people could not know the 'rate God taxed their trespasses against'.⁸ We might come to know this eventually, but only through divine revelation, perhaps the least 'natural' of all cognitive

8 John Locke, *A Paraphrase and Notes on the Epistles of St. Paul* 2 Vols, ed. A Wainwright, Cambridge, Cambridge University Press, 1987, vol. 2, p. 524 n. 13; in John Dunn, 'Bright enough for all our purposes; John Locke's conception of a civilized society', *Notes and Records of the Royal Society*, 43, 1989, pp. 133-53, at p. 139. The power to punish arises from God's omnipotence, though his right to command derives from the indebtedness of the creature to its creator (Tully's 'workmanship model'); these two elements of God's authority are outlined at EHU 2.28.8: 'He has Goodness and Wisdom to direct our Actions to that which is best: and he has Power to enforce it by Rewards and Punishments, of infinite weight and duration, in another Life...'.

processes.⁹ This is difficult to reconcile with the belief in the possibilities of human cognitive powers, indeed it is a huge lacunae in Locke's work as a whole¹⁰, but it remains true that Locke was one of the most sensitive investigators of the distortions preying on human understanding, and one of the original architects of the project to set conduct right. We can never lose sight of its theocentric ballast; but equally nor can we its role in the legacy of the Enlightenment as a *project*.

Given Locke's belief in the importance of individuals to take responsibility for 'the care of our selves' and not to mistake 'imaginary for real happiness', the whole process of belief formation must be carefully attended to. He begins, as we know, with an assault on innate ideas, attacking the requirement that subjects must trust religious or other authorities as to the validity and legitimacy of so-

- 9 See *The Reasonableness of Christianity*, in *The Works of John Locke*, Volume 3, London, (8th ed.), 1777: 'it is too hard a task for unassisted Reason, to establish Morality in all its parts upon true foundations; with a clear and convincing light'. But cf. EHU 4.28.5-6 on the compatibility between revelation and reason. The divergence between pessimism of *The Reasonableness* and the more optimistic tone of *The Essay* is all the more confusing given he was working on or revising both at roughly the same time. See the careful discussion of this tension in Ayers 1991, chp. 15 *passim*, to which I am greatly indebted.
- 10 But see Professor Tully's interesting discussion that Locke turned to a theory of probability (see Locke EHU 4.15.2-4) as a means of providing a rational ground for morality and Biblical hermeneutics; *An approach to political philosophy: Locke in contexts*, Cambridge University Press, 1993, pp. 192-201, 226, 312-314; similarly Barbara Shapiro, *Probability and certainty in 17th century England*, Princeton University Press, 1983. For an excellent overview of the fundamental inconsistency between reason and revelation in Locke see David Wootten, 'John Locke: Socinian or natural law theorist?', in James E. Crimmins ed., *Religion, Secularization and Political Thought: Thomas Hobbes to J.S. Mill*, London, Routledge, 1989, pp. 39-67. Wootten concludes that Locke's TT and EHU are fundamentally inconsistent with *The Reasonableness of Christianity*, (1695) and that he probably saw this to be the case in the course of re-working them towards the end of his life. Wootten is unconvinced that the solution Locke endorses in the end has anything to do with substituting probability for the sure demonstrability of the moral attributes of god, the immortality of the soul, or even the moral law of nature. The whole issue of Locke's moral theology seems no clearer today amongst his readers than it was in the seventeenth and early eighteenth centuries; see J. Marshall, 'John Locke and Socinianism', in M.A. Stewart ed., *Oxford Studies in the History of Philosophy*, vol. 2, Oxford University Press; in the same volume Ian Harris, 'Locke on Justice'; Arthur Wainright, 'Introduction', John Locke, *A Paraphrase and Notes on the Epistles of St. Paul*, 2 vols, Oxford University Press, 1987; D.D. Wallace, 'Socianism, Justification by Faith, and the Sources of John Locke's *The Reasonableness of Christianity*, *Journal of the History of Ideas*, 1984, 45, 1984. For the background to the radical Deist arguments to which Locke was being associated and from which he sought to distance himself, see J.A.I. Champion, *The Pillars of Priestcraft Shaken: The Church of England and its Enemies, 1660-1730*, Cambridge University Press, 1992, especially pp. 109-114.

called 'innate principles'. No man should have the power to be
'Dictator of Principles and teacher of Unquestionable Truths' (1.4.24).

He provides a genealogy of such belief formation at 1.3.22-26, where
he considers the

ways and steps by which it is brought about..that Doctrines..have been derived from
no better original, than the Superstitions of a Nurse, or the Authority of an Old
Woman..grow up to the dignity of Principles in Religion or Morality...

Locke wants to not only defeat the arguments of these 'druids', but
also provide an alternative form of assent governing human action
and conduct. At the base of Locke's alternative proposal is the practice
of suspension and examination, which he discusses most fully in Book
2 chapter 21, and which underpins the discussion of liberty in the *Two
Treatises* (II. 57-63). It strikes the modern reader as straightforward and
almost commonsensical. One has to suspend one's judgement and
carefully examine the grounds of each proposition that demands
assent. This is fundamentally what it means to be 'free' according to
Locke, having the power to suspend the execution of desires, to
'hinder blind Precipitancy' and be 'at liberty to consider the object of
them; examine them on all sides, and weigh them with others.. In this
lies the liberty Man has...' (2.21.67, 47). This is why the question of
'whether man's will be free' is 'unintelligible' for Locke, the more
important one being what determines the will - which is the mind
itself moved by 'uneasiness'.(2.21.14)¹¹ Men by their very nature are
moved by pleasures, pains, and desires, which are the bases of all
feelings of 'uneasiness'. We have a capacity to reason, and also have
some control over our desires, but this alone is not quite enough to
motivate action. Reasoning, to be effective, i.e. to determine action,
must form expectations of pleasure and pain in order to determine the
preferences of the will, which ultimately involve the rewards of
heaven and the punishments of hell. Pain is a resonant sensation for

11 But as Ayers points out (1991, p. 194), Locke has completely side-stepped the question of why, if everyone has the power to 'stand still, open the eyes (and) look about', some people do and some do not? This is part of Lock's general failure to explain how what is rationally or speculatively compelling is psychologically or practically so; i.e. how to match motive with perceived obligation (cf. 2.21.52).

Locke, since 'present pain' makes an immediate and necessary part of our misery, whereas 'absent good' does not make a similar necessary part of our happiness. The 'uneasiness' of hunger motivates us to seek preservation, the pain of sexual lust to marry ('better to marry than to burn' quotes Locke from the Gospel of Paul, 2.21.34). These and others are implanted by God, but still others are acquired and absorbed from all around us; uneasiness for honour, power, riches, all of which are provoked by custom and poor education.¹² 'Suspension and Examination' is the means to overcome these artificial uneasiness's and allow for the exercise of our judgement, which for Locke is 'the source of all our liberty' (2.21.47). Read in tandem with his declaration at II.57 of the *Two Treatises*, that 'where there is no law there is no freedom', we can achieve a richer understanding of what the concept means to Locke. The key is in his characterization of 'law' which is 'not so much the Limitation as *the direction of a free and intelligent Agent* to his proper Interest', and thus its end is 'not to abolish or restrain, but *to preserve and enlarge Freedom*'(II.57). Liberty seems to mean more than simply the means to preservation. I will return to this below.

However, men, in all their stubbornness and weakness, are not easily convinced of this way of regulating their assent and so they must be educated and trained towards it, since the 'Understanding Faculties' are not merely for idle speculation, but 'for the Conduct of his Life'. The 'pleasantness' and 'unpleasantness' which accompanies human action has to be understood and changed. Defacto desires must be suspended, their consequences examined, and one's actions 'reasonably' determined. Since most of our 'concernment' are of matters not 'in broad day light.', the greatest part of it is of a probabilistic nature. Locke's use of probabilistic reasoning, which was influenced by Boyle and Gassendi, permeates all of the *Essay* as well as the *Two Treatises*.¹³ Throughout them, Locke is laying down the

12 It is 'uneasiness' which drives man to want more than he justly needs, and accounts for economic activity beyond subsistence (Locke TT; II.37).

13 See Tully 1993, pp. 203-7; Shapiro 1983, *passim*.

grounds for judging all beliefs and desires in relation to human conduct, *relative to* evidence or 'grounding'. In the *Essay*, Locke listed the criteria (in lexical order) against which a proposition must be judged, and according to which the proportional degree of assent was to be given (4.15.4). In this way, judgement appears to be external and impartial to the nature of the proposition being examined. As happy as he probably was to have identified a rigorous method of attacking superstition and coerced belief, Locke was pessimistic as to who would be capable of using it (4.20.1-7). He struggled with this in a number of drafts of the *Essay*, until he finally settled on the fact that men would have to be conditioned to 'covet' the answers he wanted them to.¹⁴ The project henceforth is clear; to develop a practice that would form the necessary 'inclination' to examine and assent in the way outlined at 4.15:

...the pleasure of the action itself is best acquir'd or increased by use and practice..Trials often reconcile us to that, which at a distance we looked on with aversion; and by repetition wears us into a liking, of what possibly, in the first essay, displeased us...Habits have powerful charm, and put so strong attractions of easiness and pleasure into what we accustom ourselves to, that we cannot forbear to do, or at least be easy in the omission of actions, which habitual practices have suited, and thereby recommends to us (2.21.69).

Our conduct is governed by the formation of mental and physical habits, implanted by God, custom, and education, which recommend actions and beliefs to us:

... custom settles habits of thinking in the Understanding as well as of Determinancy in the Will, and of motions in the body..all which seem to be but Trains of Motion..once set going continue on the same steps they have been used to which by often treading are worn into a smooth path and the motion itself becomes easy as it were Natural...(2.33.6).

In the very next section Locke points out that reason is often powerless versus these habits, and thus introduces not only a philosophic justification for the use of the counter-practice of probabilistic reasoning, but we sense, a political urgency as well. (2.33.7)

Probabilistic reasoning informed not only the means by which people came to acquire knowledge and decide upon a course of action,

¹⁴ John Locke, 'Study', MS. Locke, f.2, beginning 26 March 1677; printed in King 1830, vol. 1, pp. 171-203. This was added to the fourth edition of the *Essay* at 4.19.

but their overall political judgement as well. For example, it lies at the base of Locke's conception of popular sovereignty. Individuals gave up the political power to execute the law of nature to institutionalized forms of government when they entered political society.(2.7) However this surrendering of political power is conditional upon the governors governing in accordance with the public good, and if they are judged not to be doing so, (acting 'contrary to the trust reposed in them'), the bond of obligation is forfeited and political power devolves back to those who gave it up in the first place (2.149). Thus, political communities and governments not only derive from, but perpetually rest on the abilities of its members to *judge* and *act* accordingly; 'The People shall be the judge...every man is Judge for himself..' (2.240-1) The nature of this judgement is necessarily probabilistic.¹⁵

These general themes can also be found in Locke's *Of the Conduct of the Understanding* (1697), meant as a final additional chapter to the fourth edition of the *Essay*. It contains, in a clear and lucid fashion, arguments we have already encountered in the *Essay* with regard to man's actions being governed by his understanding, and the need to overcome bad habits, partialities, and prejudices. Its 1890 editor called it 'a sort of practical appendix' that enquires into 'the constitution and history of the Human mind' and suggests the 'rules and cautions for guiding or controlling its operations in the search for knowledge'.¹⁶ The mind did not need to be filled with possessions, but trained to increase its activities and powers.

In *Conduct* Locke also provided a glimpse of the nature of the kinds of knowledge we saw in the distinction discussed above. At section XII ('Observation') Locke wrote that 'particular matters of fact are the undoubted foundation over which civil and natural knowledge is built'. From these matters of fact, mediated through our faculty of

¹⁵ I am grateful to Professor Ashcraft and Professor Tully for discussions on this point.

¹⁶ Thomas Fowler 1890, in Axtell ed. 1968, p. 57.

judgement, we can draw conclusions which are 'the Standing rules of knowledge and consequently of practice' (p.36). What are particular matters of fact? For Locke they are related to private, individual sensations or experience. The experience of pain, as we saw, is a fact which directly guides and governs one's action (EHU 4:11:8). This is also the case in the *Second Treatise*. Since men are to judge the extent to which the sovereign is acting in accordance with the common good, they must have a basis upon which to judge. Even though this judgment is ultimately probabilistic i.e. based on the practices of suspension and examination, those 'abuses' and 'prevarications' are identified and known by their being felt, thus 'rouzing' the people to reclaim their political power. What is felt by the individual in being 'rouzed' is said by Locke to be an experience of the violation of one's 'self-propriety'; i.e. one's 'real' property, one's property in oneself, one's liberties, as well as any possessions gained from the 'fruit of industry'. As we have seen, in order to justify resistance, this violation of 'propriety' must either be felt by the majority of the population, or, though only touching a few, judged as threatening to all. (II. 208 -210). What is seen or felt is of a two-fold nature; an attack upon personal propriety, and an attack upon the laws and constitution of the community within which one's propriety is guaranteed and made real. In privileging 'factual' civil discourse, Locke attempts to overcome dogmatically framed theological discourse, and discredit their particularly constructed understanding of what *counts* as requiring civil redress.¹⁷

Locke sets his own particular boundary as to what constitutes harm. In privileging a particular understanding of social facticity, Locke is determining the space within which human action, particularly in political society, will be possible. The state can intervene, for example, in religious practices if the empirical necessity of the case satisfies

17 There is an excellent discussion of the issue of Locke's 'social facticity' in relation to contemporary political argument by Kirstie McClure, 'Difference, Diversity, and the Limits of Toleration', *Political Theory*, 18, 3, 1990, pp. 361-91. I am indebted to this fine article.

Locke's conditions, and thus demands some kind of action. Thus, in his *Letter Concerning Toleration*, Locke mentions that civil authority could stop the practice of animal sacrifice if the interest of the commonwealth was better served by building up the stock of cattle. (LoT, p. 42)¹⁸ Locke is not only talking about the justified intervention of the state in matters of indifference relating to food or water. Subjects of the civil authority mediate and interpret their understanding of benefit or harm, pain or pleasure, *through* the conceptual gauze of their perception of social reality. And since no law can escape inconveniencing someone, the magistrate must govern with the public good in mind, and not according to a few private opinions complaining of being hard done by. Locke is not making an argument against coercion as such; it might be wholly unsuitable for religious ends (it is irrational to use it there) but certainly not in the case of preserving public order, even if the effects of that coercion incidentally harm a particular sect. Thus the effect of an economically justified ban on animal slaughter might indeed have the same effect as a ban on a particular religious practice, which might cause that sect to wither and die if animal sacrifice was central enough to the religious practices constitutive of their faith. Toleration gets no grip if the justification for coercion is non-religious. This is an extremely narrow form of state neutrality, if it exists at all; the state must be 'neutral' only in regard to the promotion of religious objectives - beyond that it is not relevant.¹⁹ Locke's magistrate does not merely restrict the grounds for assent, but positively moulds that which it is in the interest of the community for people to assent to, and upon which kind of information (social facticity) they can hope to base their claims. It is precisely this activity which constitutes one aspect of the 'art of government'.

18 Locke writes; 'The part of the Magistrate is only to take care that the Commonwealth receives no prejudice, and that there be no Injury done to any man, either in Life or Estate'.

19 For an excellent discussion of Locke's arguments for toleration in relation to contemporary arguments, see Jeremy Waldron, "Locke: toleration and the rationality of persecution" in Susan Mendus ed. *Justifying Toleration*, Cambridge, Cambridge University Press, 1988, 61-86, especially pp. 77-9; and William A. Galston, *Liberal Purposes: Goods, Virtues, and Diversity in the Liberal State*, Cambridge University Press, 1991, pp. 259-263.

It is important to place this art in the context of the three general practices of government, or kinds of moral rules and enforcements, which Locke identifies.²⁰ The first was the rational understanding (*via* divine revelation) of god's requirements for his creatures reinforced by the 'prudential sanctions' of this life, but mainly by the overwhelming threat of sanctions in the next, the 'Rewards and Punishments of another Life, which the Almighty has established, as the Enforcement of his Law' (EHU 2.21.70). The importance of God's punishments to Locke's understanding of obligation cannot be underestimated (it partially explains why he so tenaciously held onto his theistic framework long after he could of dispatched it on philosophical grounds), and it provides the grounds for the strong motivation to obey the dictates of morality in a way that the pagan philosophers could not; that is, they lacked the 'true' (i.e. binding) force of law.²¹

20 EHU, 2.28.6-13. I am indebted for my understanding of what follows to Tully 1993, pp. 225-241; Dunn 1984b 290-2; and Thomas Pangle, *The Spirit of Modern Republicanism: the moral vision of the American founders and the Philosophy of Locke*, University of Chicago Press, 1988, pp. 193-204. Despite some rather silly Straussian-inspired moments, this is a work to which I am indebted.

21 Locke discusses this providential apparatus of government in relation to classical accounts of virtue and vice in *The Reasonableness of Christianity*. See Tully 1993, p. 227; Pangle 1988. This represents perhaps the limit of the relationship between Locke and classical theorists; 'So much virtue as was necessary to hold societies together, and to contribute to the quiet of governments, the civil laws of commonwealths taught, and forced upon men that lived under magistrates. But these laws being for the most part made by such, who had no other aims but their own power, reached no further than those things that would serve to tie men together in subjection; or at most were directly to conduce to the prosperity and temporal happiness of any people...we see how unsuccessful in this (i.e. in perceiving their duties) the attempts of (pagan) philosophers were before our saviour's time' (p. 87; see also pp. 88-94). Professor Dunn ('Justice and Locke's Political Theory', *Political Studies*, 16, 1968, 68-87) takes this the furthest; 'when [Locke] turned away from the exigencies of political tactics and the puzzlements of intellectual polemic to lay out the sole possible way for a man to live well [in *The Reasonableness of Christianity*], he made no attempt to elaborate on the adequacies of contemporary moral insight and approbation...[he was] not concerned with social morality but with individual salvation, not with how a man ought to act, with virtue and vice, but with what he must do to be saved'. Cf. Wootten 1989 (especially pp. 60-1), who argues (convincingly) that even before the *Reasonableness* Locke had realized he had undermined the possibility of there being a universal natural law from which all men could deduce a set of moral duties, but that this did not seem to stop him continuing to work on the radical (natural law based) claims of the TT and the EHU. As a result, Locke's epistemology, political philosophy, and theology all have different implications for his moral philosophy; Locke simply insisted that even though moral principles originated in revelation this did not mean that at some point they might also be shown to be rational. For Wootten this simply magnifies our collective inability to show how reason adequately establishes our moral aspirations and principles. Cf. Ayers 1991, pp.

This voluntarism is fundamental to the juridical apparatus as a whole - the sovereign civil power declares and enforces the laws of civil society and thus what is and is not a crime, and the community as a whole plays an important part in determining and enforcing virtue and vice. These are the other two forms of government Locke identifies. The public law of particular communities (the 'Civil Law' EHU 2.28.8) was backed by the coercive sanctions of its rulers, which for Locke were based in the developing apparatus of the early modern mercantile state. Here the citizen must trust the government to a large extent beyond the letter of the law since he is dependent upon effective governmental power for the development and prosperity of his community. Yet ultimately this power could not command total or passive obedience in the face of a breach of the law of nature so judged, at which time even a legitimate political power lost its authority.²² An important question to ask (which will be examined below) is the relationship between the application of this legal/practical apparatus, and the personal and political agency of the individual members of that society. The third practice is 'The Law of Opinion or Reputation', which is the force of the moral traditions and processes of socialization of particular communities on men's conduct. The terms virtue and vice are 'Names pretended' to stand for actions in their own nature, when in fact they are 'in the particular instance of their application' only attributable to those actions which are considered 'in reputation or discredit' in whatever society or country therein. In any society, the law of reputation (or 'fashion') attaches various rewards and punishments, honours and dishonours, to the conduct of its members

196-202 ('Reflections of Locke's Ethics').

22 In some of his earlier writings Locke went so far as to argue that there was a distinction between the mode of obligation to human laws and divine laws. The two frequently come into conflict, and in the matter of conscience (subject to divine law) viz indifferent things man is obliged to active or passive obedience, since the law of God 'forbids disturbance or dissolution of governments', so that the citizen 'under what form of government soever he lives, fulfills all the law of God concerning the government i.e. obeys to the utmost that the magistrate or society can oblige his conscience'. Ms Locke fi, pp. 123-6; re-printed in King 1830 I, pp. 114-7; and Dunn 1969, 49 n.1.

since men still retain the power of thinking 'well or ill; appraising or disapproving of the actions of those whom they live amongst, and converse with: And by their approbation and dislike they establish amongst themselves, what they call vertue and vice' . Locke recognizes that it is an extremely effective 'governor'; 'he who imagines commendation and Disgrace not to be strong motives on Man...seems little skill'd in the Nature or History of Mankind...[no one] in ten thousand (can) bear up under the...condemnation of his own Club' (EHU 2.28.10-12). Men are dependent on this power of socialization both in terms of its effects on their motivation to do 'the right thing' in the context of their interpersonal relations, as well as to gauge their own sense of self-worth against the judgement of their fellow relations and citizens. Insofar as it matches closely the injunctions of the law of nature it is notoriously unreliable (though there is some overlap often enough), and thus requires the added support and guidance of the other practices of civil law and divine revelation.²³ As it happened, the concern for dignity and honour seemed not to be strong enough to be effective in the vast majority of the population, however much it was amongst the elites, and required

23 But as Wooten, Tully, and Harris have all pointed out, in the *Two Treatises* (and the EHU; see 1.3.6 and 2.28.11), Locke relies on a collective self-interest in collective security as almost matching the obligations of natural law. This is consistent with Grotius' claims in *The Rights of War and Peace* (1625), where the law of nature resembled very closely the collective interests of mankind; 'All we have now said would take place, though we should even grant, what without the greatest Wickedness cannot be granted, that there is no God, or that he takes no Care of human affairs' (*Prolegomena*, 11). As Tuck (1993, pp. 197-9) points out, it was only in the second edition of the book that Grotius added to the characterization of the *ius belli ac pacis* as arising from 'Divine Commands' (as opposed to simply 'Nature' or 'Custom and tacit Consent'). It is also interesting to note Locke's draft 'Morality' (MS.c. 28, fols. 139-40, in T. Sargentich, 'Locke and ethical theory', *Locke Newsletter*, 5, 1974, 24-31; Wooten interestingly (p. 54) calls this a manuscript of 'self-interrogation') where he attempts to show how from the principle of worldly self-interest, one could deduce the principle that all men should obey the golden rule, and have good reason to invent a system of justice, even without knowledge of a divinely ordained moral order. The dating of this manuscript would seem to be essential then, in order to place it in relation to the EHU and the TT; unfortunately there is little agreement about this, though Wooten (and Tuck 1979) offer good reasons to think it is pre-1681. But cf. another Locke MS, 'Ethica B', MS Locke c28, fol. 141: 'A dependent intelligent being is under the power and direction and dominion of him on whom he depends and must be for the ends appointed him by that superior being. If man were independent he could have no law but his own will, no end but himself. He would be a god to himself...'. x

some kind of corrective action. These last two practices of government were informed by the tenets of a basic Christianity which rendered casuistical authority unnecessary, but nevertheless required the inculcation of a relation to self which included the practices of suspension and examination, probabilistic reasoning, and a range of 'virtuous' behaviour. Not everyone could be fully inculcated, and Locke meant his educational tracts for the most part to be directed at the elites, but overall, his ethic of discipline, sobriety, industry, and honesty, was one applicable to as wide a community as possible. It is important to recognize them in the context of a project of reform, to root out old prejudices and deconstruct settled ways of acting, and the attempt to secure as much as possible that men could be responsible for their actions.²⁴

The two laws of 'politick society' and 'reputation' are the areas most closely connected with the reformation of specifically human capabilities, and as such, are also related to Locke's understanding of political power examined above and in chapter four. If both of these laws relate to the 'disposing' of subjects in a certain matter to act as disciplined, self regulating beings, then this too involves more than just the delineation and application of Law (of duties and rights on the part of the citizens), but an engagement with, and knowledge of, the 'humours, interests, and capacities' of men - i.e. an art of government. An examination of one aspect of this reforming project might yield more light on what Foucault described above, and what I have been describing up to now.

24 'Who is there almost, that dare shake the foundations of all his past Thoughts and Actions, and endure to bring upon himself, the shame of having been a long time wholly in mistake and error? Who is there, hardy enough to contend with the reproach, which is every where prepared for those, who dare venture to dissent from the received Opinions of their Country or Party? And where is the Man to be found, that can patiently prepare himself to bear the name of the Whimsical, Sceptical, Atheist, which he is sure to meet with, who does in the least scruple any of the common Opinions?' (1.3.25).

5.2 "BE NOT CONFORMED TO THIS WORLD BUT BE TRANSFORMED BY THE RENEWING OF YOUR MIND"

Professor Dunn has argued that Locke's conception of the substantive irrationality of most human beings and absence of good judgement did not theoretically preclude the formation of a more enlightened and self-disciplined population, but that it was beyond the 'causal reach' of the most 'imaginative statecraft', even the 'skill and insight' of an 'omnipotent legislator'.²⁵ Nevertheless it is clearly the case that Locke did address himself to some concrete issues concerning the reformation of men, and not just in a 'moral panic', but in the cool light of administrative government, an environment in which he was perfectly at home (if not always physically so). In doing so, he was fulfilling what he saw to be that other part of moral discourse - how to get men to practice what they came to know.

The context within which Locke's writings on the reformation of the poor and his participation in the activities of the Board of Trade and mercantile oeconomical policy in general, is within the slow development of the practices of modern juridical government.

Between the seventeenth and eighteenth centuries and the beginnings of 'political economy', the activities of government became not only more complex but diverse, as the relationship between state and society becomes less one of identity and more one of opacity. The sixteenth and seventeenth century usage of the word 'police' suggests the beginnings of a sense of the powers exercised by government over a 'population' - an ensemble of functions (*not* synonymous with bureaucracy) which together constitute the 'police' of the social body. It is the idea of population which comes into play here, constituted by individuals 'where previously...there had been only groups, *Stände*, orders or estates, inviolable in their eternal hierarchy'.²⁶ It is population, constituted by individuals, which is the object of police

²⁵ Dunn 1989, pp. 145-6.

²⁶ Pasquale Pasquino, "Theatrum Politicum: The Genealogy of Capital - Police and the State of Prosperity", in Burchell, Gordon, Miller eds. 1991, pp. 105-118., pp. 110, 112.

administration. The very agenda (and non-agenda) of the state is problematized, this is to say, the monolithic entity of state is relativized within the context of a series of 'problems of government'. Though of course there is a break with the visible grid of police regulation between the seventeenth and eighteenth centuries with the rise of political economy and Smith's 'system of natural liberty', there still remains a profound interdependence between economic and public order. For by the end of the eighteenth century, liberal governance set up a relation between not only government and the citizen, but within the citizen itself; the more it economized its own actions the more it sought to *secure* the optimal functioning of the various 'natural processes' - which involved changing individual's relation to *themselves*. Locke, I want to say, is at the base of any excavation of this liberal conduct.

Beginning in the late seventeenth century, relations of political power began to constitute a community whereby subjects were induced to acquire certain specific dispositions and abilities, and exercise them within particular coordinated strategies in the interest of national prosperity, or the 'publick good'. In part, this is an examination of the growth of capabilities on the part of subjects in relation to the intensification and extension of these powers. And yet this process is a double edged one; it results in the acquisition of capabilities, but also simultaneously, the gradual erosion of the ability of the individual to exercise their self-governing form of subjectivity, through for example, the language of rights or 'autonomy'. I want to examine the development and shape of these powers, and focus specifically on Locke's writings on the poor.

It is worth pausing a moment to consider Locke's 'art of government' compared to the rise of the 'reason of state' mentioned above in earlier chapters. Remember two of the essential characteristics in the development of 'reason of state'; the Tacitean language of 'interests' and 'necessity', and a fundamental concern with the security and

preservation of the state against any prior claim of justice, whether expressed in Ciceronian or Aristotelian terms. Grotius, in some of his earlier republican writings, sought to recover some of the old values of humanism, but mainly in terms of an aristocratic republicanism rather than the more popular-driven variants we saw in Machiavelli, and to some extent, in Cicero. What of Locke? It seems necessary to point out that Locke certainly did not endorse the reason of state literature with which he was no doubt familiar.²⁷ However we have seen how Locke grounds the relationship between the citizens and their governors as being one of trust, and even with regard to the exercise of the prerogative and the particularities of the executive and federative powers, that that trust is subject to the perpetual judgement of the citizens in whose name any action is carried out (see above; cf. ST.chp 12).²⁸ The leeway between an act being technically illegal and yet still beneficial to the public good is for Locke the space within which the judgement and moral capacities of citizens must be activated; if the act was not *prima facie* immoral, it was, as Professor

27 Aside from owning the works of Machiavelli, he possessed a copy of Gabriel Naude's *Considerations Politiques sur les Coups d'Etat*, (see Harrison and Laslett 1965, 2074a). For the association between Locke and the reason of state literature, see Richard H. Cox, *Locke on War and Peace*, Oxford University Press, 1960; for a devastating rebuttal see Dunn 1969, chp. 12 *passim*. Cf. Tully 1993, p. 182 who notes that natural law theory 'came to terms' with *raison d'etat* practices in the seventeenth century.

28 As Tuck (1993, pp. 122-153) points out, there were three basic responses to the rise of the reason of state discourse in the late sixteenth and early seventeenth century. The first was an attempt to combine reason of state with the older form of Ciceronian humanism, which was essentially impossible given the complete incompatibility between Ciceronian prudence and its reliance upon justice, and the needs of imperial states. The second was a more subtle integration of Tacitism and Aristotelian political science, where the particular (or 'low level') laws of a state could be overridden given that they were not in the same category as the constitution itself, provided the constitution was 'good' in Aristotelian terms; necessity might demand it. (p. 25; cf. Aristotle, *The Politics*, 1288b10-1289a11. This seems to have emerged most readily in Protestant Germany). The third response was outright rejection in favour of a 'return' to the older values of humanism, whether in arguments of Jesuits such as Adam Contzen (*Politicorum libri decem* 1618/19), or in the humanist Aristotelianism of Richard Hooker (*Of the laws of ecclesiastical polity*). Locke is no doubt of some distance from all three of these arguments, but nevertheless closest to perhaps variations of the second and third. Like Hooker, Locke saw the common good as the essential goal of legislation and society as such; 'the power of Society, or Legislative constituted by them, *can never be suppos'd to extend farther than the common good*' (2.131; see 135). Locke's explicit admiration of Cicero, and in particular the *De officiis*, is extremely relevant in this context.

Dunn has argued, 'transparently justified'.²⁹ However if the goal of political society was no longer the preservation of religion, and yet not the preservation of just *any* ³⁰ form government, upon what did the art of government work? To what end?

By the beginning of the seventeenth century the idea that the poor can be transformed from being problematic and unproductive, to being of use and of value to the community and to the state, is beginning to become well-entrenched. One could argue that this too is present in the Renaissance or the Middle Ages, or even before, indeed the entire edifice of Christian pastoral teaching seems to suggest this possibility (as do the writings of Aristotle and Plato). However, I do want to argue that a break does occur in relation to the new social reality of seventeenth and eighteenth century political and economic life, and the changing vocabularies and practices of politics.

I would like to make some brief remarks on the changing sense of self which was occurring from the early seventeenth century onwards, in addition to the brief sketch of Locke's conception of 'self' above, which will add to a consideration of the changes I am trying to sketch. I do not intend to fully consider the changing conception of self which occurs between the Greeks and the seventeenth century,³¹ but I would like to focus briefly on the influence of Descartes. If it is the case that by the end of the thirteenth century men had a sense of themselves as individuals and their location within their social world was increasingly constituted by economic and political practices which enhanced this feeling, then what Descartes does is *radicalize* this subjectivity. For Descartes, the material world can be understood

29 Dunn 1969, p. 164. Cf. 2.220 where Locke emphasizes how men must 'take care of their Liberty'.

30 Though it is a theory compatible with different forms of government in different social and economic contexts; the principles are meant as universal standards of right against which comparisons and adjustments are to be made according to circumstances. See the good discussion of this point by Grant 1988, pp. 55-7.

31 For that, see the attempt by Charles Taylor, *Sources of the Self: The Making of the Modern Identity*, Cambridge University Press, 1989.

mechanistically, yet the mechanical universe is not, in itself, a medium of thought or meaning. Our thinking about it is a process of understanding its parts, from the simplest to the most complex, and ordering them to meet certain subjective demands. The material world, including our bodies, is mere 'extension' from which we can disengage and objectify, clearly and distinctly obtaining our certainty through evidence. The order of ideas, to generalize, is *constructed* and not found (as it is in Augustine or Plato). At first glance this seems similar to the Stoic conception of *autarkein* or the Epicurean *prohairesis*, but in Descartes the hegemony of reason is not part of any 'thick' vision of the world, rather it instrumentalizes our desires and relates them to their functionality. The doctrine remains theistic in many ways, but the distinction between the human and the spiritual has been radicalized to the extent that the sense of a well ordered life comes from the agent's *own* dignity as a rational being. Rationality is no longer the subsection of a given order of things, but defined procedurally, the operation of which, however, might produce substantive conclusions about the world. Cartesian proof is no longer a search for an encounter with God from within (as in Augustine), but instead, 'I meet myself'.³²

Now this 'radical reflectivity' is but one stage along the path of what Charles Taylor has called 'the affirmation of ordinary life'. There are an enormous amount of complex and important factors to consider in such a claim. I will select only one. By the end of the sixteenth century there is a sense of self-responsibility which, though present in some form in the fourteenth century, is more profound if not rather different; i.e. a strong sense of self-control and disengagement which is both radically reflexive and linked to a sense of *generosite* - or self worth. It is also important to link this development within the practical context of the rise of the disciplinary practices, which

32 Taylor 1989. See also 'Rules for the Direction of our Native Intelligence' in Cottingham, Stoothoff, Murdoch, *Descartes: Selected Philosophical Writings*, Cambridge University Press, 1988.

beginning in the sixteenth century, took on an increasingly influential and institutional form. Here, the reflexive individual intersects with the reflexive state. One is a process of dissidence and particularization, the other, of homogenisation and centralisation. In very general terms, it is the dynamic of this relationship which constitutes the beginning of the kind of 'modern' governmental problems we see beginning to emerge in the (late) seventeenth and eighteenth centuries.

I want now to turn back to our case study in order to draw out the general thrust of my argument above, in more detailed and specific circumstances. I will begin by sketching the contours of economic discourse and practice in seventeenth century England, since it is within these terms (some very new) that the *problem* of poverty is recast and (re)understood.

Most economic historians describe a very circumscribed economic structure in England throughout most of the seventeenth century. Its basic characteristics were that it was pre-industrial, pre-mechanized, and mainly agriculturally based. It was barely a subsistence producing economy, especially in the earlier parts of the century. Gregory King's famous report, *Natural and Political Observations* (1696), showed that close to fifty percent of the population were existing below levels of subsistence, and thus dependent on parish poor relief, all the more remarkable in that it was accepted by his contemporaries as basically correct.³³ The economy was also subject to the unsettling interference of natural phenomena - diseases, the weather - all of which adversely affected the ability to generate and maintain stable economic growth and innovation. Since labour was the key means of production, the hardship of everyday life in England meant economic productivity

33 For an important discussion of King and his work, and the political context of his 'arithmetik', see G. Holmes, 'Gregory King and the Social Structure of Pre-Industrial England', *Transactions of the Royal Historical Society*, 5th Series, 27, 1977, 41-68. For a general discussion of the relation between science and society see M. Hunter, *Science and Society in Restoration England*, Cambridge University Press, 1981 especially Chapter 5, where he argues that in general, the 'scientization' of politics was not as cleanly executed as many have thought.

was constantly under threat, consistently curtailed, and unpredictable. The pace of economic change in general in England was also an important factor. Whereas Germany, France, and Italy had fairly wrenching economic changes occur basically in the course of one generation, England underwent a more laborious and complex process which extended over centuries. Because English Kings and governments were able to maintain and exercise a direct and comprehensive public order jurisdiction from as early as the fourteenth century onwards, more so than France for example, ruptures in economic practice and theory were slower in coming and usually hotly contested.

As much as medieval subjects resented the intrusion of government into their daily lives, especially when it involved increasing taxation for the sake of military campaigns, they did increasingly seek an administrative structure to purge the tyranny, extortion, and favouritism they faced in their local institutions and practices. Similarly, in the sixteenth and seventeenth centuries, English populations sought out an economic and political geography through an appeal to central and local government structures within which they would feel at home, and which would acknowledge and act upon their claims for food, or fair prices, and work against those (increasingly anonymous) forces which threatened their self-preservation.

The first economic writings of the seventeenth century were an attempt to explain the rapidly changing phenomena occurring in the market places, farms, and streets, of England.³⁴ The breakdown of the 'biblical economy', begun in the high middle ages and by the seventeenth century overwhelming most of the country, made what

34 The best general accounts are still found in C. Wilson, 'The Other Face of Mercantilism', *Transactions of the Royal Historical Society*, 5th Series, IX, 1965, pp. 118-139; W. Letwin, *The Origins of Scientific Economics: 1660-1776*, London, Methuen, 1968; D. Coleman, *The Economy of England 1450-1750*, Oxford University Press, 1977; and J. Appleby, *Economic Thought and Ideology in Seventeenth Century England*, Princeton University Press, 1978.

used to be an easily distinguishable social context of economic transactions increasingly more complex and difficult to comprehend. Local markets were now subject to distant and sometimes invisible factors affecting the price and availability of their produce. A general increase in food production during the seventeenth century meant that the subsistence imperative embodied in Elizabeth's 'Book of Orders' could no longer exclusively determine the decisions of producers. Economic life was not as visible or as tangible as it once seemed in the collective consciousness of the community, and was increasingly incompatible with local ways, and incomprehensible to local understandings.

The starting point for many of the attempts to come to grips with these changes was the separation of things pertaining to 'economics' from an intersubjectively constituted 'social' context. The first to do so were the so-called 'mercantilist' writers. We must be careful in our use of such terminology however, since 'mercantilism' misses much of the specific character of early modern economic writing. On its own it explains little. A better description of the characteristic form of economic discourse of this period, as Michel Foucault and Keith Tribe have argued, is 'political oeconomy'. Oeconomy refers to the conception of a national economy similar to a vast household, and thus designates a concept quite distinct from our understanding of 'economy'.³⁵

In 1620, a spell of prosperity for England was rudely interrupted by a decline in the demand for woollen cloth, England's principal export. This quickly had an adverse effect on the economy as a whole, and combined with a few miserable harvests, caused a general economic 'depression'. The government was forced to buy grain from abroad to feed the population, and as a result, its balance of payments became

35 See K. Tribe, 'The "histories" of economic discourse', *Economy and Society*, 6, 3, 1977, pp. 314-343; see also his *Land, Labour, and Economic Discourse*, Routledge and Kegan Paul, 1978; and D. Coleman, 'Mercantilism Revisited', *The Historical Journal*, 23, 4, 1980, pp. 773-791.

massively unbalanced. The debate sparked off by this downturn is important to consider. Widespread canvassing of expert opinion occurred and in 1621, a crypto-Board of Trade was appointed to investigate the underlying causes of the crisis in as systematic a way as possible. In the context of this search for explanations, Thomas Mun's *England's Treasure by Forraign Trade* written in 1623 (but not available widely until 1664), provides a glimpse at a new field of seventeenth century economic discourse. Mun argued that since prices followed the movement of goods, England needed an *orderly* flow of goods and money. He argued that because money was simply the passive servant of commodities, in order to avoid large trade imbalances such as occurred in 1620, England had to seek earnings rather than treasures, and encourage trade rather than contain exchange. Part of Mun's argument was that previous ordering of exchange based on the appeal to local tradition, would have to change. He also argued that since it was only an understanding of how commerce actually works which could provide the means for the creation of wealth for the good of the common weal, it was necessary to isolate and study economic activity for its own sake. Mun extended the separation of secular life from custom and tradition (but not necessarily religion), by elevating the knowledge of trade to a privileged position.

In the sixteenth and seventeenth centuries, England's penetration of world markets was guided by the specifications of Royal charters, which granted exclusive and wide ranging privileges to selected groups of merchants. By mid-century this was being challenged. Arguments were being put forward to increase the number of traders in the market, to break open the contained nature of the monopolies. As one writer put it , trade was like dung, and it 'stinks when kept in a heap...but...spread abroad, it doth fertilize the earth and make it fructifie'.³⁶ Thus, counterposed to traditional arguments was a

36 Appleby 1978, p. 110.

different understanding of economic growth, and with it, a new understanding of wealth; 'the strength of a kingdom consists in the riches of many subjects, not a few'. Within this framework, the individual was ascribed more self-responsibility, reason, and independence.

William Petty provides a fascinating and clear exposition of this 'new analysis'. Though his *Political Arithmetick* was not published until 1690, it had been written in 1676 and circulated amongst friends. It is a systematic and voluminous textbook of 'political anatomy', an attempt to calculate 'in Terms of Numbers, Weight, or Measure, to use only Arguments of sense as have visible Foundations in Nature', the 'Persuasions...I find too currant in the World', namely England's decline in trade. Petty's treatise is comprised of ten concise chapters, each with an introductory proposition followed by a detailed 'proof' involving agricultural data, population indices, and comparative political 'science'. Other chapters include detailed discussions of tax policy, naval policy, labour potential, and monetary issues. Throughout is a tone of restraint and methodological fastidiousness, signalling a desire to move beyond conjecture and towards the discovery of the 'hard' laws of trade, and an attempt to offer accurate predictions and prescriptions. His underlying thesis is the need for a nation to have a rational and responsible approach to the business of trade, and to use a 'political arithmetik' in order to discover:

1...the true state of the People, Land, Stock, Trade... 2. that the King's subjects are not in so bad a condition as discontented Men would make them...3. To shew the great effect of Unity, industry, and obedience in order to the Common Safety, and each Man's particular happiness. (p. 117)

Petty's calculations, explaining the value of each person in relation to the fluctuation of wages and land rents, was not simply enhancing the description of that particular reality, it was part of the changing structure of that reality itself. Petty's 'mean piece of science' (as the Dedicator of the treatise put it), was an attempt to glimpse into the 'perplexed and intricate ways of the world', and to deepen the analysis

begun by Mun.³⁷

This emphasis on efficiency and productivity was also present, in a different format and using completely different methods, in Samuel Hartlib's economic fairy tale, *A Description of the Famous Kingdom of Macaria* (1641). In this imaginary 'eutopia', a cult of productivity ensured that everyone improved their land and thus is made freer and happier than anywhere else on earth. Anyone who failed to improve their land was banished forever by order of the 'Council of Husbandry', the guardians of the kingdom. Appleby argues that in this tract and in Petty's, a further severing of the connection between economic processes and traditional or moral precepts occurred.³⁸ She may be partially right. The increasing attention and importance to productivity was incorporated into discussions of property for most of the seventeenth century (and before), especially in the natural law genre, where Locke, for example, saw productive land use as the basis of a profoundly moral approach to property. The agricultural reality of England during this time, with the extent of available land being rapidly depleted, was such that improving the productivity of land was an issue that had to be addressed by any oeconomic writer. In pointing this out, I want merely to avoid making the slippery assumption that the emerging economic analysis was necessarily incompatible with the alternative 'socially grounded' analysis. In many important ways, the language of productivity fit as well into this genre as it did into 'political economy'.

By mid-century then there were two identifiable fields of economic discourse. Some oeconomists saw a need for a planned and organized commercial strategy based mainly on manufacturing in order to generate wealth, whilst others saw the need for more unfettered commercial activity based mainly on the 'natural acquisitiveness' of man. By the late 1660's, a time of increased international competition

37 Petty 1690, 'A Dedication'. For the argument that King was more influential in this regard, see Holmes 1977.

38 Appleby 1978, p. 84.

in the woollen trade, and a large growth in England's population bringing with it widespread unemployment and underemployment, it was clear that the former had prevailed. A consensus emerged that England's resources had to become better organized, and as Charles Davenant - one of the most influential neo-Machiavellian trade analysts of the century - put it, trade 'was like a nice and coy Mistress' to be courted and pursued.³⁹

One of the earliest and most powerful of these tracts was Josiah Child's *New Discourse on Trade*, which first appeared as *Brief Observations* in 1668. [It was a very successful piece, going into five editions between 1668 and 1699.] Its two key themes were closely interlocked; the relationship between employment and national welfare as reflected in the balance of trade, and the relief and employment of the poor; 'It is multitudes of People, and good Laws, such as cause and increase of People, which principally Enrich any Country; and if we retrench by Law the labour of our People, we drive them from us to other countries that give better rates'. (The Preface) Child provided a synthesis of the new analysis and the more traditional interventionist practices. For Child, England's subjects had to be located within a strategy of production, and their self-interested activities (Child quotes Hobbes on man's 'real' nature) harnessed towards the good of the community.

Child was building on a whole body of analysis which had emerged at or around 1649, that *annus mirabilis* in the literature of social criticism. Hartlib had published his 'fairy tale' in 1641, as well as two tracts on the relief of the poor in 1649 and 1650 (in which he proposed the erection of workhouses to employ and educate the children of the poor). Rice-Bush published his *The Poor Man's Friend* around this time, Peter Chamberlan the *Poor Man's Advocate or England's Samaritans*, along with William Goffe's *How to Advance the Trade of*

39 Charles Davenant, *The Political and Commercial Works in Five Volumes*, London, 1771, p. 453.

the Nation and Employ the Poor. In all of these, as in Child's, poverty, employment, and national welfare were all linked together and examined in a 'Pettyian' fashion. By the 1690's, in addition to Child's numerous editions, people such as Matthew Hale, Robert Hartford, Charles Davenant, Thomas Firmin, John Bellers, John Cary, and John Locke, were all writing within this same sphere. Davenant epitomized the congruence of the individual, labour and national prosperity when he wrote; 'The Bodies of Men are without doubt the most valuable Treasures of a Country, and in their sphere, the ordinary People are as serviceable to the Common-Wealth as the rich, if they are employ'd in honest labour and Useful Arts'.⁴⁰

The *bodies* of men are the most valuable treasure of a country. I think this is an important acknowledgement by Davenant of what is being worked out in the course of seventeenth century oeconomic discourse. Whereas in the high middle ages, sovereigns struggled to combine military ambition with internal control and stability, by the seventeenth century, we are beginning to see strategies for an effective homogenization of the state at war (whether it be a military war or trade war - Child said that 'all trade (is) a kind of warfare') and the expansion of internal discipline.⁴¹ In a sense, the act of governing is changing from questions of how does a sovereign secure his position, to where does his or her strength lie? How is she or he to use it and augment it? At the base of this kind of political oeconomy is a governing activity, a relationship between ruler and ruled where the

40 Charles Davenant, *The Political and Commercial Works in Five Volumes*, London, 1771, p. 202. For an important discussion of Davenant and his role in the trade debates of the late seventeenth century, see I. Hont, 'Free Trade and the Economic Limits to National Politics: Neo-Machiavellian Political Economy Re-Considered', in John Dunn ed., *The Economic Limits to Modern Politics*, Cambridge University Press, 1990. I am greatly indebted to this perceptive analysis.

41 This homogenization did not, of course, translate into an enlarged and omnipresent centralized state structure. If anything, the late seventeenth century and early eighteenth century saw a period of localism and community action, where the teeth of social regulation remained in the shires and counties, and with the Justices of the Peace, parish overseers, and the like. However, the grounds and rationales for governmental rationalities extending themselves to the bodies of men, and especially 'marginal' men and women, were being laid. For a general and vivid account, see Roy Porter, *English Society in the Eighteenth Century*, Penguin, 1982; revised 1990; and the work of Foucault on 'governmentality', discussed below.

ruled are not only property of the ruler in a juridical sense, but are resources (bodies) at their disposal as well.

I want now to examine Locke's connections with the the poor laws and workhouse practices of the seventeenth century. However we need first to be acquainted with some of the basics; English poor law history is a vast and complex subject, so I shall (for your sake and mine) be highly selective.⁴² I want to sketch how attitudes to the poor were transformed from being straightforwardly charity based, to becoming part of a calculus of national health and welfare. These two categories are not mutually exclusive and are often complementary.

Though we find Acts in relation to the poor well before the sixteenth and seventeenth centuries (such as Richard II's Act of 1388 prohibiting vagrancy and 'wandering'), it is perhaps not until the sixteenth century that we see glimmers of *positive* state action vis a vis the poor.

Beggars were subject to penalties if found to be able bodied, and if incapable of working, restricted to begging only as prescribed by a magistrate. With the Reformation, and the secularization of church property, the poor became increasingly the responsibility of the state, and not simply an adjunct to the activities of the church. By 1601,

42 The key work here has been done by M. Dean, *The Constitution of Poverty: Towards a genealogy of liberal governance*, London, Routledge, 1991; but I have also looked at P. Slack, *Poverty and Policy in Tudor and Stuart England*, London, Longman 1988; J. R. Poynter, *Society and Pauperism: English Ideas on poor relief 1795-1834*, London, Routledge, 1969; the Webb's, *English Poor Law History*, London, 1927; G. Ashcrott, *The English Poor Law System: Past and Present*, transl. H. Preston Thomas, London, 1888; G. Nicholls, *A History of the English Poor Laws: Volume I, II, III*, London, 1888; and F. Eden, *The State of the Poor: A History of the Labouring Classes in England...with Parochial Reports*, 3 Vols, 1797. J.C. Davis, *Utopia and the ideal society: A study of English utopian writing 1516-1700*, Cambridge University Press, 1981 is a good discussion of this period in the context of 'full employment utopia's'. K. Williams, *From Pauperism to Poverty*, London, Routledge, 1981 provides a very interesting analysis of not only poor law history but, the history of the discipline of poor law history itself, and the different genres within which it has been represented. M. Landau, 'The Regulation of Immigration - Economic Structures and Definitions of the Poor in Eighteenth Century England', *The Historical Journal*, 33, 3, 1990, pp. 541-72. P. Mandler, 'The Making of the New Poor Law Redivivus', *Past and Present*, 117, 1987, pp. 131-157, and H. Cunningham, 'The Employment and Unemployment of Children in England 1680-1851', *Past and Present*, 126, 1990, provide very useful information on particular aspects of poor law history, as well as a more up-to-date overall approach to the topic.

I have culled most of my history from these sources, so in order to keep the narrative moving, I shall reference only the *verbatim* quotes I use.

under Elizabeth, most of the poor relief measures were codified into one Act, and poor relief itself began to take an institutional shape that would characterize it throughout the seventeenth century; administration by parishes under a committee of 'overseers', the separation of children, infirm (and later the mad or insane), and able bodied, and specific measures of taxation of the community at large to pay for it all. As Ashcrott wrote in his nineteenth century history; 'In this Act we recognize the state strong in the consciousness of its civilizing mission, not the state merely discharging...repressive functions'.⁴³

Notwithstanding the Victorian tones of Ashcrott's evaluation, he was in fact noting an important change. Most social theorists at this time, though recognizing the need for a large population in England, were increasingly troubled by the growing numbers of rootless unemployed and underemployed subjects shuffling throughout the kingdom. The issue was serious because it was perpetual; vast armies of workers wholly dependent on a fragile manufacturing export industry, in addition to the uncooperative elements, meant that the ranks of the non-productive poor could swell to oceanic levels at the shortest notice. They were not only a threat to public order, but to the pockets of landlords as well, who were forced to pay for their relief through the poor rates. These factors, and others, helped constitute the 'problem' of the poor.

From the beginning of the century onwards, once thinkers such as Mun linked together prosperity, balance of trade, and productivity, the discursive and practical terrain was set for the elaboration of particular apparatuses to merge the previously idle and unproductive into the reasoning of state. By 1649, from the radical Winstanley to Hartlib, most economic tracts contained at least some measures to deal with the poor, and equally, extensive and detailed proposals for their

43 Ashcrott 1888, p. 8.

'reform'.⁴⁴

In 1661 and the Act of Settlement, limiting not only the number of people who qualified for relief, but also physically settling them to a particular parish or district, the inclusive designs of early modern political oeconomy were coming to work directly on the poor. The general principle of the Act was to control and monitor their movement by means of passes, badges, and licenses, among other things, which as a practice, would stay intact almost into the nineteenth century.⁴⁵

In 1666, Child's famous treatise was published, which we have examined briefly above. Aside from its balance of trade arguments, it also recommended that 'Duty to God and Nature' requires that we 'provide for and employ the poor, whose condition is sad and wretched..bred up in Beggary and Laziness..[and who become]...unhealthy bodies and serve only to stock the kingdom with Thieves and Beggars'.⁴⁶ In the 1692 edition, Child added a proposal for an assembly of the 'Fathers of the Poor', who would be given powers to buy land and build workhouses and hospitals for their

44 This is a continuation of the discourse begun in the sixteenth century by Christian humanists such as Vives and Erasmus. The important point of continuation is the emphasis upon the 'work ethic' (which of course predates its puritan manifestation) and the Roman stoic emphasis on the civic nature of one's vocatus, or calling. The essential components of the Christian humanist reform program - discipline, work, punishment, supervision, and education - were carried over into the seventeenth century, though with different elements being emphasized at different times. By the late seventeenth century, programs of poor relief varied between the more penal approach of Laudian Anglican and Tridentine Catholics, and the puritan emphasis on vocational rehabilitation in order to produce productive citizens. See Margo Todd, *Christian Humanism and the Puritan Social Order*, Cambridge University Press, 1987, chapter 5 *et passim*, and pp.256-258. for the sixteenth and early seventeenth century background. Cf. Paul A. Fideler, 'Poverty, policy and providence: the Tudors and the poor', in Paul A. Fideler, T.F. Mayer eds., *Political Thought and the Tudor Commonwealth: Deep Structure, discourse, and disguise*, London, Routledge, 1992, 194-222, especially at pp. 210-215. As Fideler (and in the same volume, Neal Wood) points out, even in the mid 1550's, texts such as Sir Thomas Smith's *Discourse of the Commonweal* (1549, published 1581) was crafting 'a kind of political economy', understanding poverty to be more of an economic fact than moral condition, and thus explainable in terms of dearth and dwindling national wealth, and decaying towns and villages.

45 Cf. the Webbs (1927). See also Norma Landau (1990) who, by studying primary source material such as the actual certificates of settlement and removal, concludes (convincingly) *contra* the Webbs that this kind of regulation was an 'integral component of the economic structures of early modern England'.

46 Child 1668, p. 81.

employment and confinement. He also proposed organizing some of the larger parishes into unions for the purposes of building workhouses, suggesting Westminster and London as prospective venues.

Richard Haines in his 1677 pamphlet, *Proposals for Building in every County a Working Alms-House or Hospital*, proposed similar unions of parishes based on the Dutch example of a workhouse in every city and their 'perpetual confinement of the poor'. Haines was one of the first to seriously investigate the potential of the poor paying their own expenses via the work they did whilst kept inside. He even invented the 'spinning machine', a contraption which allowed the youngest of children to be included in the manufacturing of cloth.

It was in the 1690's that we began to see more detailed and wide-ranging plans for the employment and reform of the poor. A seminal figure is Thomas Firmin, who in 1665 at the age of 23 had organized the poor in his county to work in his linen manufacturing business.⁴⁷ His factory not only provided employment, but a school as well, and children as young as three were brought in and taught to spin and read. His experiment, and his 1678 pamphlet *Some Proposals for the Employment of the Poor and for the Prevention of Begging* (reprinted many times in the eighteenth century), made him a recognized expert, and by the 1690's he was being sought out by Locke and the Board of Trade for advice. The Quaker John Bellers was also an important figure. He proposed the creation of 'colleges of Industry' in his *Proposals for Raising a College of Industry* (1695). Just as Locke in his *Essay Concerning Human Understanding* was the 'underlabourer' clearing away the rubbish for the proper conduct of men, Bellers wrote; 'The best materials for building put together without order or method, are little better than rubbish, until they are regularly

47 Firmin was also a leading Socinian. Stephen Nye dedicated his *Brief History of the Unitarians, called also Socinians* to him (1687 and 1691 in a collection financed by Firmin - *The Faith of One God*). See J.A.I. Champion, *The Pillars of Preistcraft Shaken: The Church of England and its Enemies 1660-1730*, Cambridge University Press, 1992, pp. 106-9.

placed...the same are mankind until they are regularly and usefully employed'.⁴⁸ Francis Brewster, in his *Essays on Trade and Navigation* 1695, also called for working schools, and in keeping with a seemingly favourite metaphor, said they would 'manure and improve the first sprouts as they came into the world'.

There were dozens of other pamphlets with proposals for the employment and reform of the poor in the 1690's, including those by Matthew Hale, Robert Harford, Charles Davenant, Yarranton, John Cary, and of course, John Locke. Before moving to the next section to examine in more detail the content of John Locke's scheme and its relation to his other more famous work, it is important to acknowledge the work of John Cary, who even more so than Thomas Firmin, was one of the most sought after and influential experts in the field in the seventeenth century.

Cary's seminal pamphlet, *An Essay on the State of England in Relation to its Trade, Its Poor, and its Taxes, For Carrying on the Present War Against France* 1695, contains all the elements of political oeconomy and more. What differentiated it from other works in the same period was its immediate practical impact, and its relation to John Locke's *Report of the Board of Trade*. Cary's pamphlet, like Child's, was a bestseller of its genre, republished throughout the eighteenth century (under a slightly different title) and translated into French and Italian.⁴⁹ Cary places the government of the poor within the context of the state, trade, and war. He proceeds to analyze not only England's internal trade and manufacturing sector, but its

48 Bellars 1695. Firmin's and Bellers's emphasis on useful employment and training was a change from William Petty's ideas for example, who thought that the poor should be employed no matter what they did - even if it was to build pyramids on Salisbury Plain or bring Stonehenge to Tower Hill.

49 For an interesting discussion of the John Cary's economic analysis see David Harris Sacks, *The Widening Gate: Bristol and the Atlantic Economy 1450-1700*, University of California Press, Berkeley, 1991, pp.339-361. 'For John Cary', writes Sacks, 'the social world was in a continuous process of change. It had begun in simplicity, but, driven by man's need to balance existing supplies against his wants, it had grown day by day in complexity. Only the underlying laws of economic action, themselves open to human understanding and application, remained constant' (p. 343).

external trade as well with East India, Africa, Madeira, Ireland, Scotland, the Canaries, Spain, Portugal, Turkey, and Italy. He also recommends the establishment of a committee of trade. He then moves toward a consideration of the poor. Cary begins by criticizing the laws which are already in place to deal with the problem, which are 'defective..tending rather to maintain them so, rather than to raise them to a better way of living'.⁵⁰ The solution was 'nothing but good laws' to restrain the habits of idleness, and provide work for those who are willing, 'and force them to work that are able'. (156) He suggested the establishment of workhouses, not simply to confine the poor, but like Firmin and Haines, 'founded on such principles as may employ the poor'. (157)⁵¹ These workhouses would be set up in the cities and the great towns, one or more in each place, in order to prevent the constant shuttling of poor from one parish to the next. Justices of the Peace would be given the power to assign young men to husbandmen and manufacturers, who would by statute be obliged to receive them. In coastal towns, like Bristol where he was based, some of the poor would be forced to serve in the navy, since the sea 'is a very good cure for legs and Arms, especially such as are counterfit through Sloath'. (161) Popular culture was to be tightly controlled, with no 'hawking or selling of ballads', and stage plays, lotteries, and gaming all 'strictly looked after'. (166) These measures, involving the use and coordination of the juridical structure, economic practices, culture, and the military, would 'introduce a habit of vertue amongst us, but also to the making multitudes of people serviceable who are now useless to the Nation'. Since labour was the original condition of the happiness of man ('that by the sweat of his Brow he should eat his Bread'), the idleness and lack of discipline of the poor, 'was the foundation of all those vices which prevail amongst us..whereof cannot be prevented but by encouraging Youth in an early Delight of living by Industry,

50 Cary 1695, p. 156. Page references follow in brackets in the text.

51 See the discussion in Mary E. Fissell's excellent *Patients, Power, and the Poor in Eighteenth Century Bristol*, Cambridge University Press, 1991, especially pp. 79-82, 89.

which would keep up a true English spirit in them'. Not only would idleness be eliminated figured Cary, but the cost of instilling it as well, with enough left over to pay for the war with France. Like Petty and Child before him, Cary based his insights on the analysis of a world which was determinable and understandable though rational and even scientific means. He was providing a strategy for the effective extension of governing power through a complex and multi-layered coordination of the numerous resources at the disposal of the state.

Cary's work had an immediate impact. Following the publication of his 1695 pamphlet, it appears he single-handedly organized a campaign for the raising of a workhouse in the city of Bristol.⁵² In the next year, he succeeded in having an Act passed through Parliament creating the Bristol Corporation of the Poor, the first of its kind, and set about building its first workhouse. It was to be large enough for all the able bodied poor, infirm, and children who could not be properly maintained at home. The children, 'will be bred up to Labour, Principles of Virtue will be implanted..by the good government thereof, and laziness and Beggary will be discouraged'. (117) The guardians were able to force any able bodied person to work in the 'House', or send them into the navy, husbandry, or bound apprenticeships, as Cary's pamphlet had suggested. He set up a 'Committee of the Poor' which visited poor families within their vicinity, kept track of their overall numbers, and decided which children would be taken from families and placed in the workhouse. Anyone who sought relief had to appear before the committee, where they were registered in the committee books, and notes were taken as their age, health, qualifications, and general civility.

The first one hundred guests were girls, whom Cary described were 'appointed..set hours for working, eating, and playing; and (given) leave to walk on the Hills with their tutresses when their work was over and the weather fair'. Another workhouse was eventually built,

⁵² Cary 1717, p. 116.

occupied by young boys, the infirm, and 'ancients'. Cary was confident of its complete success, not surprising considering how much he had riding on the whole project;

...the success has answered our expectations, we are free from Beggars, our old people are comfortably provided for, our boys and girls are educated to sobriety, and brought up to delight in labour, our young children are well looked after..and the face of the city is so changed already..to hope these young plants will produce a vertuous and laborious Generation....(161)

Cary noted how all of this was brought about; 'the change we have wrought on them is by fair means..we have a Brideval, stockes, and Whipping-Post, always in their sights, but never had occasion to make use of either'. The precise workings of this discipline has been dealt with elsewhere,⁵³ and thus I want only to acknowledge its presence and its description by a constructor of it.

It was not just that the poor posed an economic problem, or a public order problem, or a spiritual problem, it was that they posed all three simultaneously. The poor could no longer be simply tolerated or locked up, their bodies had to be worked upon, to be made healthy (industrious and pliant) so that the 'body politic' might also be healthy. The workhouse represents the practical nature of this governing activity. John Locke provides an excellent example of a thinker connected to this issue not only historically and conceptually, but practically as well.

Locke's ideas on the reformation of the poor are neither original nor unusual in the context I have sketched above. His *Report of the Board of Trade* (1697) came to occupy a privileged and oft-quoted place in the history of the development of the poor laws right up to the time of the Webbs, including entire swathes of his text being quoted in the 1817 Parliamentary Select Committee report, which formed the basis of the famous 1834 Poor Law reforms.⁵⁴ I want first of all to consider the

53 See Michel Foucault, *Discipline and Punish*, trans. Alan Sheridan, New York, Pantheon, 1977; and Michael Ignatieff, *A Just Measure of Pain*, New York, Penguin, 1978.

54 See 'The Report from the Select Committee on the Poor Laws with the Minutes of Evidence', *Parliamentary Papers: Reports from Committees*, Session 28 January - 12 July 1817, vol. VI, pp. 14-15: 'The Committee cannot but avail themselves of the high authority of a Report of the Board of Trade...drawn up by Mr. Locke...and which appears to Your Committee still more applicable to the present moment, then to the time at which it was

origin of Locke's ideas, secondly their relation to the texts examined above, thirdly the arguments themselves, and finally, their relation to some of Locke's other texts and philosophy as a whole.⁵⁵

Locke wrote the Report whilst a member of William's Board of Trade between 1696 and 1700. The Commission had been formed to provide substantial and expert advice to the Lord Chancellors on colonial and trade matters.⁵⁶ Their work was mainly taken up with the great debate over recoinage, the management of the colonies and plantations, trade issues, and of course, the poor. Locke, as Shaftesbury's *aide-de-camp*,

written'. It then goes on to quote *verbatim* the section of the *Report* on working schools.

- 55 It is not an oft-quoted or famous part of the Lockean academic industry. To the best of my knowledge there have been only five *specific* pieces written (in English) on this aspect of Locke's work : M. Mason, 'John Locke's Proposals on Work-house Schools', in Richard Ashcraft ed., *John Locke: Critical Assessments II*, Routledge, 1991 (1962); E. Hundert, 'The making of homo faber: John Locke between ideology and history', *Journal of the History of Ideas*, 33, 1, 1972, 3-22; Tully 1993 *passim*, A. Beier, 'Utter Strangers to Industry, Morality and Religion: John Locke on the Poor', *Eighteenth-Century Life*, 12, 3, 1988, 28-41; and Dunn 1989 (in response to Tully). David Wootten in the context of a reassessment of Richard Ashcraft's claims that Locke was a social and political 'radical', has argued that Locke's *Report* supports (in part) a rather different reading, one which at the very least, removes Locke from any definitive 'radical' categories. Wootten claims that Locke's *Report* is the 'only one' amongst others to adopt 'a punitive approach' and thus his views on poverty were 'not typical but exceptional' in the late seventeenth and eighteenth centuries. (88) Ashcraft retorts that it is 'overstating the case to the point of absurdity' to claim that Locke's position is the most conservative or that it was a uniquely held attitude towards the poor in the seventeenth century. See their exchange: 'John Locke and Richard Ashcraft's Revolutionary Politics', *Political Studies*, 40, 1, pp. 79-98; and Ashcraft's reply in the same issue, 'Simple Objections and Complex Reality; Theorizing Political Radicalism in Seventeenth Century England, pp. 99-115. It will become obvious below that I side with Ashcraft on this. Note however that both articles only touch upon the *Report* (over the course of 4-5 pages) in the context of a wider debate over particular macro interpretations of the general political character of Locke's work. (Wootten 1992; 87-91; Ashcraft 1992; 111-113) Mason's short article is mainly descriptive, usefully indicating some of the sources of Locke's thoughts, though he rather curtly and unconvincingly eschews any relation between Locke's thinking on poor relief and his political and philosophic work. See also Karen Iversen Vaughn, *John Locke: Economist and Social Scientist*, University of Chicago Press, 19880. P. Kelly's excellent introduction and editorial presentation of Locke's economic writings, (*Locke on Money*, Oxford, Clarendon Press 1991) should provide the basis for a more extensive integration of these issues into the whole of the Locke *corpus*.

- 56 For the background to the board and its members, see I. Steele, *Politics of Colonial Policy: The Board of Trade in Colonial Administration 1696-1720*, Oxford University Press, 1968, though he does not discuss in any detail its deliberations on policies for the poor. See P. Laslett, 'John Locke, the great recoinage, and the origins of the Board of Trade 1695-1698, in John Yolton ed, *John Locke: Problems and Perspectives*, Cambridge University Press, 1969, though he too ignores the issue of the poor. Kelly (1990) provides the most comprehensive background as to Locke's thinking and writing on trade matters, pointing out that it began in earnest once he joined Shaftesbury's circle in the late 1660's.

had developed a reputation not only for his political theory and philosophic work (at least that which he admitted to), but his political sense too, and had been involved in a number of public policy discussions, as well as having extensive experience in dealing with the colonies and plantations. Locke also wrote on economic matters, bringing him into contact (and often conflict) with people like Child, Davenant, Petty, and Cary. There are conflicting opinions as to the extent of Locke's activities on the Board - he was reluctant to join and even tried to resign at one point, and his correspondence of this period shows him to be constantly complaining about subjecting his asthmatic lungs to London's polluted air. He did, however, make substantial contributions on the state of affairs in Virginia, the debate over recoinage, and the regulation of the poor.

The problems of the poor were on the Board's agenda when it first met. It immediately set about collecting statistics, and sent for the ideas and advice of Thomas Firmin and John Cary, the two most well known 'experts' in the field. Each commissioner was asked to prepare suggestions, though Locke's was eventually the only one they considered worthy of consideration. It seems he had been working on the issue for some time, or at least thinking about it before he submitted his specific plan to the Board.⁵⁷ Indeed in May 1696 John

57 Another kind of social policy scheme was proposed by Locke in a 1679 journal entry entitled 'Atlantis', and based on other journal writings between 1676-8. However this was not so much a project of social reform as it was a project for colonial settlement. In it, Locke deals with the organization of labour, cities, the social function of learning and its limits, sumptuary laws, marriage, and population. His concern is to coordinate all of these activities into a well ordered community, with an overall stress on prevention, rather than the more punitive tone and themes of the *Report*. Passages bear obvious debts to More's *Utopia*, and Harrington's *Oceana*. There are none of the aristocratic (and racist) views of Shaftesbury here, that were so prominent in the *Fundamental Constitution of Carolina* 1669. One could argue that 'Atlantis' is a more original work, which would cast further doubt as to the extent which Locke was representing his own views in the *Constitution*. See Ernesto de Marchi, 'Locke's Atlantis', *Political Studies*, 3, 2, 1985 for a short but informative note on this journal entry. For a further discussion of Shaftesbury, Locke, and the Constitution of the Carolinas, see K. Haley, *The First Early of Shaftesbury*, Oxford, Clarendon Press, 1968. As secretary to the Council for Trade and Foreign Plantations, and as informal secretary to the committee of proprietors of Carolina (of which Shaftesbury was a member), both during the 1670's, Locke dealt with issues ranging from foreign and domestic trade, currency, interest rates, and of course, provision for the poor. I thus demur at Dunn's suggestion (1989 p. 146 and n.83) that Locke thought only about the reformation of manners or poor relief in his closing years

Cary had sent Locke his essay on trade and his proposals for the employment of the poor in Bristol, and Locke had written back, saying that 'it is the best discourse I ever read on that subject'.⁵⁸ He also possessed the Act of Parliament which had created the Bristol Corporation of the Poor in his library. As well, Locke corresponded with Thomas Firmin, and received information about his experiences employing the poor by having them spin wool.⁵⁹ It is obvious, when looking at Locke's *Report*, how deeply influenced he was by Firmin, and especially John Cary. Cary's success in Bristol in 1696 was copied throughout the country and widely known. It predates Locke's intervention, and thus Professor Tully is slightly misleading when he claims that the proposals of *Locke's Report* were applied in Bristol soon after publication.⁶⁰ In fact, Locke's *Report* was only in part incorporated into the consensus legislative proposals put to the Lord Justices by the Board on two successive occasions (1697 and 1698).⁶¹ Both led to nothing legislation-wise, and in general, any major poor law legislation was left unattempted until the nineteenth century. Yet, Locke's scheme struck a chord, and is, on the whole, indicative of much of the thinking on the subject in the seventeenth century.

Locke is clear about the cause of the multiplication of the poor, and the subsequent burden of their upkeep; 'The growth of the Poor...can be nothing else but the relaxation of discipline and corruption of manners'. (Locke 1697: fol 232 [1]; 1789: 102)⁶² The poor, as individual

and usually in a state of 'moral panic'.

58 De Beer 1979, let. 2079, 2084. See also BM add. MS (Cary) 5540.

59 De Beer, 1981, let 2241, (p. 84).

60 Tully 1993, p. 237.

61 The Board's final recommendation can be found at the Public Records Office Colonial Office papers (PRO CO) 389/14 fols 127-138 (23 Dec 1697). Wooten is correct in pointing that the Webbs were mistaken in assuming the Privy Council accepted *Locke's Report*. (1992: 88 n 34) Locke's influence is obvious from the first page - 'we attribute the increase of the Poor to the relaxation of discipline, corruption of manners and ill-education of the poorer sort...' - but it is on the whole a consensus document cobbled together from the various working drafts submitted in the course of their deliberations (PRO CO 389/14 fol 129).

62 There is some confusion as to the actual full text of Locke's *Report*. The version published in Fox Bourne (1876) is incomplete, as is the one in the Bodleian Library. (Locke MS. 30 fol. 86ff) A complete draft is in the Public Record Office entitled 'Draught of a Representation, Containing [a] Scheme of Methods for the Employment of the Poor' (PRO,

bodies, were not contributing to the well being of the common weal, quite the opposite. If they would not work, then they should be put to work, and the disposition which allowed them to become lazy and indignant substituted for one embodying industriousness and discipline. This would occur on two levels; the personal and the juridical. Aside from immediately restraining the opportunities for debauchery (by closing all the 'coffee houses and brandy shops'), those who administered the current laws had to *use* and *enforce* them as they were intended; 'we have reason to think that the greatest part of the overseers of the poor, every where, are wholly ignorant' (fol 233 [3]; 103).⁶³ Locke then proceeds to work through, in detail, some suggested practices aimed at regulating and improving the lot of 'idle vagabonds'. Like Cary, he suggests any beggars caught in maritime counties should be sent to sea, placed inside a workhouse, or if caught breaking any laws, in a house of correction. Building on the modifications to the Act of Settlement which had been introduced in 1696, Locke thought that the movement of the poor should be closely controlled and monitored through a system of certification papers, passes, and visible identification marks.⁶⁴ Begging outside delimited

CO 388/5/fols 233-248). A very interesting 1789 reprint, attached to a history of a Society for the Reformation of Manners in Lindsey, and complete with explanatory notes, and from which I quote below, is also complete, at least if compared with the original 'Draught'. See (1789: vii, 67) for the story of how the editor came to acquire Locke's 'authentic' MS. This seems to have escaped the attention of Beier. Page and folio references are provided for both versions.

- 63 Locke (and subsequently the Board as a whole) was emphatic about the need to enforce already existing laws, which he used in part, to justify his own 'new' proposals. He mentions in particular 39 Eliz. cap A and 43 Eliz. cap 2. See also the editor's 'Conclusion' in the 1789 reprint, where he notes that 'every man of the best discernment will see that the wise provisions of the Statutes of the 43d of Eliz...for regulating the internal police of the kingdom, have been fruitless: not from any defect in the laws themselves, but from want of a due observance and execution of them by those to whom that duty is entrusted' (150-1).
- 64 The Act of William in 1696 which modified the Act of Settlement, provided for certificates to be issued to subjects showing their place of settlement, and thus allowing them to move about with relative freedom until they make a claim for relief, and are thus sent back to their place of settlement. Still, the Act called for a number of measures of control which Locke seemed to find useful; the Act states, '..every person receiving relief of any parish shall, together with his wife and children, openly wear upon the shoulder of his right sleeve a badge or mark with a large Roman P, and the first letter of the name of the parish whereof such poor person is an inhabitant, cut thereon either in red or blue cloth...'. Locke adopted a similar technique, whereby the poor when registered with the local corporation received a

areas brought severe penalties, including confinement, or even banishment to the plantations. Counterfeiters of passports were to lose their ears for first offenses, and women caught begging five miles or more from home were to return home, or if caught for a second time, sent to a house of correction and put to a regime of hard labour. Children under the age of fourteen found begging outside their authorized areas were to be sent to working schools and soundly whipped and then put to work.(fol 235 [8]; 106-7) Children of the labouring poor between the ages of three and fourteen, whom Locke considered to be the greatest burden to the parish, were to be removed from their families and placed in 'working schools', thereby 'easing' the mother's load (i.e. allowing her more time to work). The children, kept in 'better order', would thus be 'from their infancy..inured to work, which is of no small consequence to the making of them sober and industrious all their lives after'. (fol 239 [15]; 112-13)

Locke grounds all of these suggestions in the powers of local guardians, who would be elected by local rate payers (as in Cary's scheme), and have 'the power of a justice of the peace over vagabonds and beggars, to send them to seaport towns, or houses of correction'.(fol 243[23]; 121-3) They are to meet every year and 'take account of the flock', inspect the local management, and give directions and instructions for policy. All of this would be paid for by a combination of the work done by the poor and poor rates, which would be standardized throughout the union.

Of course, ideas spoken or written down, do not always translate directly into practice. In general, most of the grand schemes for the reform and employment of the poor had only limited success, or were complete failures. Firmin's self-financing workhouse quickly fell into debt, and Cary's 'spacious' workhouse was soon labelled a 'wretched hovel' known mainly for the terror it provoked in the poor of Bristol.

number of 'badges'. These enabled some to beg during pre-determined hours as decided by the guardians, however if they were caught doing so outside these hours, they were to be whipped and sent to a house of correction for six weeks.

They even tried to change its name from 'workhouse' to 'house of maintenance' or 'house of protection'. However, we should not confuse the *extension* of control or power with its absolute effectiveness; that control or power is extended is not to say its intention will be necessarily fulfilled or realized. Gaps occur, expectations are not met, chance enters the picture. Yet what is happening is that the extension is providing a foundation for potential action, for the operation of a discursive field within which discourse and practices do sometimes connect. This is how language has an influence on the character of political practices, legitimating or enabling one practice rather than another.

The connection between Locke's Report and his other work was easily established by his contemporaries, and readers in the eighteenth, and nineteenth centuries. The editor of the 1789 republication of the Report, notes that 'The Familiarity of this Report to the ideas, language, and principles of Mr. Locke's other writings is very striking'. (Note 'N') His writings on education bear the most immediate resemblance, but the similarity does not end there, in fact, it extends to the very heart of Locke's *corpus*, including his *Essay Concerning Human Understanding*, the *Two Treatises*, and his writings on Toleration, or at least so I want to argue. For example, Chapter V of the *Second Treatise* is perhaps the most compact and sophisticated example of Locke merging his general political theory, analysis of money, of labour productivity, and Restoration economist themes in general. An important aspect of it is also the relation of Locke's discussion of appropriation without consent to another important part of trade theory - colonial affairs. People, Locke says, can appropriate fruits, nuts, fish, game, and vacant land by means of individual labour as long as there is no spoilage and enough and as good left over for others. Appropriation on this basis, i.e. without consent, continues until money is introduced, land becomes scarce, and there is no longer enough and as good left over for others. Locke's example throughout

the chapter of where this kind of appropriation could take place was America, where it would not 'prejudice the rest of Mankind, or give them reasons to complain, or think themselves injured by this Man's incroachment' (II.36). This satisfies one of the two conditions Locke established as present in the state of nature, which he argues America is in. The second condition is that individuals exercise 'individual popular sovereignty' and are 'executioners of the Law of Nature' (II.8). At II. 14 Locke says explicitly that this condition is satisfied in America as well. Now in order to do this, Locke has to obviously deny the existence of a legitimate Amerindian political society or community. The fact that he sets about doing precisely this with great relish and impeccable consistency, arguing that their property system is tied to a world of limited desire and possessions and is unsuited for the development of modern states and property systems, indicates the importance Locke attached to the task. Indeed it could be argued that Chapter V of the *Two Treatises* is wholly directed at dispossessing the native Ameri-Indians of their land, and provide the means for colonial expansion and improvement of England's trade.⁶⁵ This concern for the development of the common good through the exercise of state power and the harnessing of the political and physical capacities of the population, is evident too in his discussion of money. For Locke, following much of the 'balance of trade' arguments, money is an *instrument* for the development of trade and commerce, and is useful because it is a means for generating benefits for society as a whole. Locke is on standard economist ground here, and furthermore, at II.42, makes the connection explicit; 'This shews how much number of men are to be preferred to largeness of dominions, and that the increase of lands and the right employing of them is the

65 For the definitive account of Locke in relation to colonial expansion and Native land claims, see the remarkable developing research of James Tully 1993, pp. 137-176; and more specifically in the Canadian context, 'Multirow federalism and the Charter', in Phil Bryden, Stephen Davis, and John Russell eds., *The Charter - ten years after*, University of Toronto Press, 1992.

great art of government'.⁶⁶ Locke's assumptions and positions on the proper 'police' of the nation are here clearly rooted in the so-called mercantilist, even 'cameralist', camp. Economic matters remained part of the general *prudentia* of civil society.⁶⁷

The importance of the investiture of conduct as part of the practices of civic *prudentia* is also evident in Locke's treatise on education, as a number of commentators have shown, and as we have seen above.⁶⁸ Aside from inculcating and implanting (what Locke calls the act of 'principling') the neo-stoic and mercantile friendly virtues of discipline and industry through training and habit formation, liberty itself becomes a practice to be learned.⁶⁹ Locke identifies it as a primary desire of men, over and above any particular objects of desire and

66 Note also, from Locke's memoranda on toleration for Shaftesbury in 1667: 'As to promoting the welfare of the kingdom, which consists in riches and power, to this most immediately conduces the number and industry of your subjects'. (PRO 30/24/47/7) The promotion of the public good in the interest of national 'power' was at the center of both Locke's economic and political writings, and it must be in this light that his views on the poor, on the role of 'labour' in general, and even property must be seen. See, for example, his letter to William Molyneux 19 January 1693/4 (de Beer 1979; iv. let. no. 1693, pp. 786-7; Kelly 1991; 16) - 'I think every one...is bound to labour for the publick good, as far as he is able, or else he has no right to eat'. See also his unpublished 'Labor': 'it is owing to the carelessness and negligence of the Governments of the world, which wholly intent upon the care of aggrandizing them selves at the same time neglect the happiness of the people and with it their own peace and security. Would they suppress the arts and instruments of Luxury and Vanity. And bring those of honest and usefull industry in fashion...if the labour of the world were rightly directed and distributed there would be more knowledg peace health and plenty in it than now there is. And man kinde be much more happy than now it is.' (1661 Commonplace Book, p. 310; Kelly 1991; 495).

67 At the beginning of his 1661 Commonplace Book, Locke classified knowledge in a fourfold division of *Theologica*, *Politia*, *Prudentia*, and *Physia*. He listed amongst the ends of *Prudentia* - wealth, happiness, health, power, fame, and pleasure. Means to attaining wealth (which is cross referenced to *oeconomia*) are *oeconomia* (i.e. household management), *Venditio et Comptio*, *artis exercitium*, and *Historia mercatura cuiuslibet*. See Kelly (1991; 94 n.2). Cf. Vaughn 1980, p. 106, who doubts that Locke can be called a mercantilist (though she says he shares some of their conclusions).

68 See especially, Nathan Tarcov, *Locke's Education for Liberty*, University of Chicago Press, 1984; and Peter Schouls, *Reasoned Freedom: John Locke and Enlightenment*, Ithaca and London, Cornell University Press, 1992.

69 Schouls 1992 (p. 227) is right to point out that along with the emphasis on habit comes an emphasis on the responsibility individuals have for the formation of our own character ('Men's Happiness or Misery is most part of their own making', STCE, 1; cf. TT, 2.42, 'And that Prince who shall be so wise and godlike as by established laws of liberty to secure protection and incouragment to the honest industry of Mankind against the oppression of power and narrowness of Party...'), a character they may have to reconstitute. But this seems to miss the emphasis found in Passmore or Tully for example, that this autonomy and self-responsibility is itself a function of a project of reform, and not the grounds for it.

notes that its regulation - i.e. when and where it is to be granted - makes it the most effective way of moving men to do what is wanted of them. Allowing liberty rather than imposing duty is thus for Locke one of the 'milder Methods of government', but at root the most complementary and the most efficacious.⁷⁰ This in turn relates to how Locke builds into his educational reforms an element of critical reflection on itself, just as he does in the *Two Treatises* where, as we saw, the people are credited with the capacity to reason and judge according to their right to revolution (II. 94, 230) The key here is that the relation of governed to governors is described as one of conditional entrustor to trustee, and hence Lockean subjects are construed not simply as blank tablets but also, it seems, as self governing rights bearers.⁷¹ At the very least then, there is a tension in Locke between these two tendencies.

It is important to always have the theological context of these developments in the background. The rise of workhouse 'technologies' and the growth of the 'Reformation of Manners' movement must be seen in the context of a general providentialism, especially after 1688 when so many subjects saw England as having some kind of special relationship with divine providence to live up to.⁷² Professor Dunn has concluded from looking at some of the same

70 Locke compares this with the 'ultimate instrument of government', which is the proper use of pain, used only after 'all gentler Ways have been tried, and proved unsuccessful' (see Locke STCE 78-9, 84, 87). In general, Locke saw harsh punishment - beating or whipping - as justified only in the very last resort, and only in specific cases of extreme 'obstinacy' and 'rebellion' on the part of the child (cf. his proposals for the punishment of wayward beggars etc.) Locke's general antipathy to gratuitous punishment and penalism can also be seen on his comments on Penn's frame of government for Pennsylvania (Locke MS f.9, fols 33-41). Interestingly he is unimpressed by Penn's proposal for an extensive state education system - it is 'the surest check on liberty of conscience, suppressing all displeasing opinions in the bud'. See the helpful discussion in Ashcraft 1986, pp. 518-520.

71 Locke (and other seventeenth century theorists) partly identified these rights as deriving from the ancient constitution. I am grateful to Professor Tully for pressing home this point to me and insisting on its implications for Locke's place in any genealogy of governmentality. No doubt he would remain unconvinced that I have taken it fully on board here.

72 As much as these movements were religious in nature - made up of Low church Anglicans and sympathetic dissenters - they invariably described the 'virtuous' individual who conformed to conventional religious standards of behaviour as also being a 'good citizen'. By the late seventeenth century and into the eighteenth, 'Societies for the Reformation of Manners' increasingly adjusted their argument to the issues of the political order of the temporal state

issues discussed here in this context, that the role of political authority in the construction of a Lockean 'civilization' was 'essentially negative' and had no duty, right, or even capacity to 'replace the active responsibilities of its subjects by a dominant agency of its own'. Thus, Lockean society was one 'whose members could shape themselves, without egregious interference from their rulers or fellow citizens, to meet the stern requirements which God had imposed upon them'.⁷³ I think it is far from being clear that this authority, especially in the form of an 'art of government' was 'essentially' negative, but that it did in fact 'work on' the capacities of its subjects, perhaps not in the sense of *replacing* their responsibilities as much as helping to 'dispose' of them in particular ways with regard to civic affairs and the 'publick good', as well as to their salvation. Locke's gloss of Romans 12:2 (quoted in the heading to this section) exhorts people to 'be not conformed to the fashion of this world: But be ye tranformed in the renewing of your minds that you may upon examination find out, what is the good, the acceptable and perfect will of god'.⁷⁴ It is important to see both elements of this message - a transformation of self with regard to the next world, but also with regard to this one; deconstructing and replacing the current 'Laws of fashion' and using the practices of suspension and examination (described in the *Essay* at II.21) to determine the right course of action. It would come to pass that this self-disciplined soul would prove indispensable to an understanding of the changing complexities of post-Restoration society, including the creeping growth of capitalism.

5.3 Civic liberalism

to justify proscription of different kinds of public and private morality. See Dudley Bahlman *The Moral Revolution of 1688*, New Haven, Yale University Press, 1957; T.C. Curtis and W.A. Speck, "The Societies for Reformation of Manners: A Case study in the Theory and Practice of Moral Reform", *Literature and History*, 3, 1976, 45-64. On the secular nature of the SRM's in the late seventeenth century and into the eighteenth, see Shelley Burt, *Virtue Transformed: Political Argument in England 1688-1740*, Cambridge, Cambridge University Press, especially chapter 3.

⁷³ Dunn 1989, pp. 146, 148.

⁷⁴ Locke, *Paraphrases*, pp. 583-4.

We are now in a position to make some general observations about the relationship between Locke's political theory and classical republicanism, which I have examined above and in other chapters. What is the nature of the similarities between them, if any?

One structural similarity is the belief in limited government, at least to the extent that power is entrusted to the governors on the basis of a state of original self-government on the part of the members of that society. As such, the *use* of rights by Locke is to constrain or limit the king or Parliament (or king in parliament) to act within a known structure of law (i.e. they are 'constitution-enforcing'), just as the republican tradition did.⁷⁵ But if we refer back to the my list above (at the end of section 4.2), we might find other similarities as well. I noted that classical republicanism assumed a particular disposition on the part of a citizen which included an understanding of self as (by nature or nurture) a political animal, and thus participation in the government of the community as not just a duty imposed by an external authority, but the very substance of the good life. Those qualities that make the citizen a participant in such a public life count as the 'civic virtues'; participatory self-rule is the realization of one's freedom in action. In such a bald form Locke seems very distant from this - or is he? Locke's central concern in the *Two Treatises* is to provide the grounds for legitimate political authority and the right of citizens to resist that authority if it contravenes the law of nature and the public good. The entire complex of duties and rights in his political theory relates to the reconciliation of liberty and authority in such a way that no one is ever required to obey the arbitrary will of another, and to engage in the active practice of ensuring that rulers and governments do not impose laws which contravene this basic tenet. Locke's repeated emphasis on the role of law and consent and

75 This is brought out well in Tully 1992, p. 9. See also Grant 1988, pp. 60-1; Richard Ashcraft, *Locke's Two Treatises of Government*, London, Unwin Hyman, 1987; Alan Ryan, 'Locke on Freedom: Some Second Thoughts, in Knud Haakonessen ed., *Traditions of Liberalism: Essays on John Locke, Adam Smith, J.S. Mill*, Centre for Independent Studies 1988, 33-53.

the centrality of legislative authority, does indeed lead his whole theory in at least a republican *direction*. Individuals do not enter the world concerned only for their own welfare, they enter with duties to the public realm, and the state is a device to help them carry out these duties as much as it protects them against the designs of others. They must also come to possess certain dispositions and 'vertues' - discipline, industry, frugality for example - and the means to perceive situations as clearly and rationally as possible, which they imbibe through general socialization and education, or if they are unlucky, through the corrective apparatuses of state (workhouses and other such schemes).⁷⁶ It is not the case that the Lockean state or society either leaves the individual to get on with his business, or free from any duty other than to preserve himself; he must constantly work to clear his mind of distorting influences, take responsibility for as many of his actions as he can, and when the situation called for it (which was quite often) act for the sake of the common good and security.⁷⁷ All of this was a kind of 'vertue' or civic consciousness, which was 'the very strength and cement of Societie without which it cannot stand'.⁷⁸

76 See generally, the excellent article by E. Hundert, 'Market Society and Meaning in Locke's Political Philosophy', in Richard Ashcraft ed., *John Locke; Critical Assessments*, II, Routledge, pp. 457-71. If Ashcraft (especially *pace* 1986), Tully, and those who have studied Locke's educational writings are even half-right, and my argument has at least *some* plausibility, Dunn's claim that Locke's individualism was 'predicated on the individual incidence of social and spiritual fate (and) not on a concern with the sociological preconditions for the realisation of men's "natural liberty"', is more ambiguous than he seems to think; see his (excellent) 'Individuality and Clientage in the Formation of Locke's Social Imagination', ed. Reinhard Brandt, in *John Locke: Symposium Wolfenbuttel* (1979), Berlin, de Gruyter 1981, 43-73, especially pp. 6-7.

77 Locke was criticized by conservatives throughout the eighteenth century for possessing an extreme version of consent theory, which they distorted in order to score propaganda points, building on the portrait drawn by William Atwood in his *Fundamental Constitution of the English Government*, who rabidly criticized the radical implications of Locke's theory of popular sovereignty. Josiah Tucker in his *Treatise Concerning Civil Government* (1781) called Locke the "Head" of republican writers (among the most eminent of whom according to Tucker were, besides Locke, Andrew Fletcher and Rousseau) who defended the 'indefensible right of private judgement' and who, as a result, were the "universal demolisher(s) of all civil government" instead of its builders (pp. 27, 37, 101). These were 'new fangled republicans' who believed in the 'liberty of the ancients', which was nothing but the liberty 'one Baron took of making war...plundering the Estate and murdering the vassals of another, and tyrannizing over his own' (81, 60).

78 De Beer, *Correspondence* VII, p. 337 (30 May 1701).

Liberty in Locke is a deeply ambiguous concept, a subdued matter but not an empty one, perhaps best exemplified near the end of the *Two Treatises* when it seems to have been replaced as the goal of civil society by 'Security' (II.222). We must always return to its fundamental relation to law - the 'director' of the free agent, not meant to abolish or restrain liberty, but to 'preserve and enlarge' it (II.57). If we define civic virtue broadly as those dispositions of the individual which make him a good citizen of a regime, that is, which allows the citizen to participate in public and private behaviour conducive to the maintenance and furtherance of that regime, then Locke fits comfortably in to the category of a theorist of civic or political virtue. It is not a matter of liberty replacing virtue, or duty being placed in opposition to rights, but rather, in the context of developing modernity and the rise of the modern administrative state, a recoding of the fundamental aspects of the relationship between individual and society. For Locke citizens had duties and needed to develop and foster a disposition to help carry them out; states also had duties and a role to play in helping citizens to fulfill them.

Contemporary theorists then who rely on a rough distinction between civic modes of life grounded either in 'participatory self-rule' or atomistic 'procedural liberalism', are painting too crude a picture of what is historically on offer.⁷⁹ Nor are those who see that it is a matter of somehow transforming classical republicanism into something more user-friendly to the attenuated civic consciousness of late-modern citizens, offering the only (or the best) course of action. Rather, once we have shed the history of liberalism, for example, of its imposed hyper-individualist and Kantian strains, we can look again and anew at the question of what the relations are between the concepts (and practices) of liberty and self in the traditions which continues to dominate our political discourse. A 'civic' liberalism

79 The most compelling portrait of this opposition has been provided by Charles Taylor, 'Cross-Purposes: The Liberal-Communitarian Debate', in Nancy L. Rosenblum ed., *Liberalism and the Moral Life*, Cambridge, Harvard University Press, 1989.

beckons us to hold a more complex account of the relation between the individual and the state and the concepts of liberty and self, which have become so central to modern and late modern political concerns. Locke is one source of this tradition (or so I have argued), even given his profoundly theocentric ballast. I want to turn to some of the contemporary manifestations of this argument now, in order to continue drawing the map of these relations, and also to see whether or not the categories we have inherited and continue to use as a result of our theoretical and practical traditions, still fit the world crowding in around us.

Interlude

'Back to history? Has the dilatory, inward-looking, and self-obsessed discipline of philosophy ever been anywhere else?'
(Jonathan Ree, 1986)

Before moving on, I want to pause and consider some of the issues I raised in the introduction to part 1 with regard to the history of political thought and political argument. What is it about doing the history of political thought in a particular way which makes it a contribution to contemporary political argument? What is the motivation to recall a particular concept or language of political argument as a means of contributing to contemporary political argument, especially if one is committed to recovering and understanding it as best one can in the context and conventions amongst which it is set? It would appear that the theorist is being pulled in two different directions, that is, between historical veracity and contemporary relevance. I rejected this characterization above as being too crude and generally unhelpful. An enormous amount of ink has been spilt on just how the methodology of linguistic contextualism is able to achieve the results it claims, much of it critical. However I can't help feeling that many of these complaints have been missing the forest for the trees, and have failed to see the more radical claims which form the base of many of the studies of our 'Cambridge School' practitioners (and perhaps the *Geschichtliche Grundbegriffe* as well). Much of the critical literature balks at the injunctive claims of Skinner's articles on methodology; i.e. that the historian *must* do the history of political thought in this way if he or she is to produce the best kind of history.¹ Another common complaint is that the kind of

1 See the articles in James Tully ed., *Meaning and Context: Quentin Skinner and his Critics*, Cambridge, Polity Press, 1988, and most recently Mark Bevir, 'The Errors of Linguistic Contextualism', *History and Theory*, 31, 3, 1992, pp. 276-298. Cf. John Patrick Diggins, 'The Oyster and the Pearl: The Problem of Contextualism in Intellectual History', *History and Theory*, 23, 1984, pp. 151-169. Many of the critiques (including these two) derive a large part of their force from the claim that Skinner can never discover the amount of information he implies from his methodological claims; nor could he, given that the meanings of texts often overflow the boundaries of illocutionary intentions. But all Skinner

history which is produced is essentially 'internal', that is to say, in being concerned exclusively with authorial intention, it neglects to situate texts in a broader 'external' context of (for example) socio-economic change.² The methodological points are important but I shall not pursue them here; besides, Skinner has recently produced an extended and updated response to many of these concerns.³ Rather, I want to concentrate on how these two general complaints, though plausible at a micro-interpretive level, are often combined into a more general accusation that this kind of methodology invites a form of 'pure' history of political thought which refuses to allow us - through 'pains-taking detail [demonstrating] the enormous difference between our concerns and theirs' - to 'kidnap classical figures for present-day purposes'.⁴ In other words, how can this kind of history be relevant to us, today?

I have already argued in the introduction to part 1 that this kind of objection misses one of the main points behind Skinner's methodology, that through a high level of historical awareness and erudition we can hope to acquire a perspective 'from which to view our own form of life in a more self-critical way, enlarging our present horizons instead of fortifying local prejudices'. Thus it is precisely the 'alien character' of these beliefs which provides their relevance, and the contribution here is not simply one of filling in certain background

has done is to attempt to come up with an account of at least some of these 'acts', and it hardly seems to follow that because he cannot account for every single nuance of illocutionary force the approach necessarily fails. He seems to me to have made this clear in noting that a social vocabulary 'characterizes' social practices (and does not wholly constitute them) and thus can provide only a 'rough guide' (in Tully's apt phrase) to the forms of life so characterized (in Tully 1988, p. 132; cf. Tully's remarks on p. 23) Perhaps Skinner's claims are appropriate only with regard to political argument (though this admits a potentially endless range of genres) than to understanding the historical identity of expression *per se*.

2 For this type of critique see Ian Shapiro, 'Realism in the Study of the History of Ideas', *History of Political Thought*, 3, 3, pp. 535-78; cf. *The Evolution of Liberal Rights Theory*, Cambridge University Press, 1986, pp. 8-11.

3 In Tully 1988, pp. 231-88.

4 A. Rapaczynski, *Nature and Politics: Liberalism in the Philosophies of Hobbes, Locke, and Rousseau*, New York, Cornell University Press, 1987, p. 2. Cf. Shapiro 1986, p. 11 who claims that Skinner's focus is 'exclusively historical' as opposed to his own emphasis on 'comprehending contemporary ideas historically'.

conditions (however important that may be), but of gaining a specific purchase on a contemporary problem.⁵ I am convinced by this claim, but I want to draw out one of the more radical conclusions which seems to follow from it, at least for Skinner (and colleagues), which is that this kind of history of ideas does not only contribute to contemporary debate but actually 'dissolves' some of our philosophical problems and perplexities.⁶ At first glance this seems preposterous - how can history do our thinking for us? But this would be too quick (though the use of 'dissolve' is highly misleading unless carefully couched). The point is essentially a Wittgensteinian one.⁷ Remember that for Wittgenstein (to condense what is of course a vastly complex thesis) the meaning of an expression lies in its use in the multiplicity of practices which make up a language, where language is not something independent of other considerations but woven into all human behaviour and activities, i.e. as a form of life.⁸ Speaking a language is thus part of an activity (and there are countless possibilities of 'language-games'⁹) where an agreement in the language used constitutes a form of life, not in the sense of an agreement on certain opinions but in terms of definitions and judgements.¹⁰ In trying to discover the meaning of our concepts (whether in aesthetics or ethics or whatever), the important questions become, 'How did we *learn* the meaning of this word ("good" for instance)? From what sort of

5 In Tully 1988, p. 287. Cf. 'The Idea of Negative Liberty', *Philosophy in History* ed. Rorty, Schneewind, Skinner, Cambridge University Press, 1984, p. 198: 'We have to expand what can and cannot be said...with examples of what has been said in the history of our own culture'.

6 This claim seems to have first been made by Tuck (in *Natural Rights Theories*, Cambridge University Press, 1979, pp. 1, 7), and discussed and endorsed by Tully ('Current Thinking about Sixteenth and Seventeenth-Century Political Theory', *The Historical Journal*, 24, 2, 1981, 475-84) and Skinner (in Tully 1988, pp. 287-88).

7 This is made clear by Tully 1981, p. 476. Cf. the confirmation from Skinner in Tully 1988, pp. 260, 262, 279.

8 Ludwig Wittgenstein, *Philosophical Investigations*, transl. G.E.M. Anscombe, Oxford, Basil Blackwell, 1986, p(ara). 143.

9 Ibid, p.123.

10 This is an important qualification. Ibid, p. 224: 'The word "agreement" and the word "rule" are *related* to one another, they are cousins. If I teach anyone the use of the one word, he learns the use of the other with it'. Cf. p. 241-2.

examples? In what language-games? Then it will be easier for you to see that the word must have a family of meanings'.¹¹ Skinner accepts this Wittgensteinian point whole-heartedly: 'To understand a concept, it is necessary to grasp not merely the meanings of the terms used to express it, but also the range of things that can be done with it...there can be no histories of concepts as such; there can only be histories of their uses in argument'.¹² Philosophical problems are 'dissolved' in that it becomes less important to settle on a definitive concept (or set of concepts) which defies all contradiction or incoherence in relation to any other, and more a matter of focusing on questions concerning the practices and theories (the 'ideologies') underpinning the use of a concept in a specific context and time. Here 'political argument' is more than semantics; in articulating a problem in a certain way, a way of acting is legitimated which has all sorts of very real and practical consequences, and in studying these instances one attempts to provide an explanation for the 'shape of [the] development' of the conceptual apparatus.¹³ Thus in examining the various usages of a concept in different practical contexts, we uncover all sorts of different questions and strategies which we might not have seen if we assumed it to be emerging as a singular response to an age-old problem. Note that the 'dissolving' of the problem has nothing to do with 'solving' it once and for all through some air-tight linguistic manoeuvre, or by uncovering an objective historicism.¹⁴ The fact that concepts are the products of theories or doctrines consisting in moral or political principles for the guidance and evaluation of political actions and institutions is presupposed by this approach, and not vice versa.

If we understand our studies of the history of political thought as akin to excavation sites around the stock of concepts and arguments

11 Ibid, p. 77.

12 In Tully 1988, p. 283.

13 Tully 1981, p. 477.

14 Thus it is not simply a matter of making philosophical problems 'go away', as Thomas Nagel worries when complaining about the logic of historicism. See his *The View from Nowhere*, New York and Oxford, Oxford University Press, 1986, p. 11.

we employ in our contemporary discourse, partially dug in an attempt to determine the 'necessary' from the 'contingent', does it follow that we are committed to some form of global or logical scepticism, that our most cherished and deeply held ideals will be stripped to an undignified, practical core? Richard Rorty provides one twist on such a stance. As is by now familiar, Rorty rejects the 'vocabulary of Enlightenment rationalism' - i.e. that there is an external reality 'out there' to be hooked into and confirmed by our language and concepts - and instead opts for a theory of linguistic communication which dispenses with the picture of language as something intervening between a true self and reality.¹⁵ Language is simply a flag which signals the desirability of using a certain vocabulary when trying to cope with certain kinds of things or organisms. Like Skinner, Rorty sees language usage - what he calls 'vocabularies' - in the Wittgensteinian idiom of tools, the point of which has nothing to do with an ultimate relation between language and thought and more to do with how our use of words gets in the way of our use of other words. In a striking metaphor, Rorty sees the history of our vocabularies as something like Darwin's history of the coral reef - old metaphors dying off and serving as platforms and foils for new ones.¹⁶ 'Our' language is nothing more than the result of numerous contingencies, a product of time and chance, neither the result of some progressive telos or the gradual uncovering of a linguistic essence (this is so even in the case of science, for scientific revolutions are merely 'metaphoric redescriptions' of nature). 'Vocabulary' replaces 'scientific language' or 'truthful discourse', but not by unmasking the falsity of some idea concerning the intrinsic nature of reality, since this would be to phrase one's claim in the very vocabulary one wants to displace,

15 See most recently, Richard Rorty, *Contingency, Irony, Solidarity*, Cambridge, Cambridge University Press, 1989, especially p. 55; *Objectivity, Relativism, and Truth: Philosophical Papers Volume 1*, Cambridge, Cambridge University Press, 1991. For a good selection of critical essays on Rorty see Alan Malachowski ed., *Reading Rorty*, Oxford, Basil Blackwell, 1990 (particularly the essays by Taylor and Williams).

16 Rorty 1989, p. 16.

trying to answer a question one should avoid (not flippantly but philosophically). To say that we should drop the idea of truth is not to say that we have discovered that - out there - there is no truth, because these kinds of arguments are always parasitic upon claims that a better vocabulary is available. 'Interesting philosophy' asserts Rorty, is the contest between an entrenched vocabulary and a half-formed new one which only vaguely promises new things. The analogy again is to do with tools: 'To come up with such a vocabulary is more like discarding the lever and the chock because one has envisaged the pulley, or like discarding gesso and tempera because one has now figured out how to size canvas properly'.¹⁷ Changing the way we talk changes what we want to do (which is not always immediately apparent) and what we think we are. Self-creation replaces 'discovery', and the poet (broadly construed) - the 'shaper of languages' - becomes the vanguard of the species. Philosophy becomes a process of redescribing 'lots and lots of things' in new ways until you have created a pattern of linguistic behaviour which tempts the 'rising generation' to adopt it. It does not present its new vocabulary as a better candidate for doing the same old things as we spoke of them in the same old way, but rather demands that we stop doing those things and do something else.

Skinner (wisely) resists the deluge of Rorty's sweeping arguments, though this might not be apparent if one assimilates their Wittgensteinian tendencies towards the dissolution of philosophical problems. Though broadly sharing with Rorty a concern to distinguish the 'merely historical' from the 'genuinely philosophical', Skinner parts company with him over the best way of doing so.¹⁸ One reason is that he thinks it possible to arrive at an assessment of the rationality of a set of beliefs held by an individual or group of individuals in history which does not rest on invoking an anachronistically objective account of rationality to pulverize them with. This is part of the

17 Rorty 1989, p. 12.

18 In Tully 1988, p. 286.

methodological commitment to uncovering the network of conventions and norms governing the acquisition and justification of beliefs in a particular society. A belief can be deemed 'rational' or 'irrational' according to the information derived from just such an excavation, where the claim relates to how near or far the agent in question was in relation to a generally accepted standard of epistemic 'rationality'. Skinner's point is that our 'interpretive charity' cannot be boundless, that there may be cases where, 'if we are to identify what needs to be explained', we will have to insist that a given belief was or was not rational for a given agent to uphold.¹⁹ Rorty thinks this is just pointless, since this kind of thing has little to do with 'Rationality' and more to do with convention and the creation of a particular set of values in a particular time in history, and thus the question of whether people were 'rational' in doing so is just out of place. This points to a more substantive difference. For Skinner it is important to think about how we can arrive at such an understanding of 'alien' forms of life in our history, and that in doing so we will discover the complexity of the processes involved in shedding one political or philosophical 'vocabulary' for another; something which is probably never as straightforward as the discarding of a lever and chock for a pulley.²⁰ In a way, Skinner puts Rorty in his own historical place²¹, that is, the systemic anti-foundationalism which allows Rorty to place so much emphasis on the contingency of vocabularies - even ones with a profound and almost immovable resonance in our liberal democratic cultures - is itself a product of a particular set of historical manoeuvres which needs to be understood in its own light. And in general it seems that Skinner is more sympathetic to the idea that a proper historical understanding can be used to put our conventional arguments to the test, not in the sense of declaring the relativity of all

19 Ibid, pp. 243-4.

20 Ibid, p. 248.

21 See Tully's helpful discussion here; Tully 1988, p. 22, though he oddly concentrates on Rorty's humanism rather than his propagation of a specifically American form of pragmatism.

values (though this is an underlying, if unspoken, possibility) but as part of the reflective and critical activity of collective deliberation in order to clarify our beliefs and ideals and ultimately to improve our social and political practices.²²

Let us take another step backwards though, and focus more closely on not only the idea of history providing critical purchase on our own forms of political argument, but also in the related sense that it provides an insight into the processes of our own self-understanding. The work of Charles Taylor is prominent here²³, and though I will be taking it up in different places below, I want to pause and draw out some general points which are relevant to the discussion at hand. Taylor's fundamental claim is that any understanding of the moral problems of the self must be in part historical, that in coming to see an epistemological or conceptual model as no longer just 'the contour map of the way things obviously are with the mind-in-world, but as one option among others', one has to engage in a 'creative redescription' of some kind, which is achieved by 'retrieving the foundational formulation'.²⁴ In other words, 'the path to articulacy has to be a historical one'.²⁵ This is linked in complex ways with Taylor's views on the embeddedness of language in the world and its history, and how human beings as language users are necessarily related to the goods which are both constitutive of, and constituted by, language. These relations remain occluded and inarticulate if left

22 See Ibid, p. 287.

23 In particular, see the essays in *Human Agency and Language: Philosophical Papers Volume 1*, Cambridge, Cambridge University Press, 1985; and the companion volume *Philosophy and the Human Sciences: Philosophical Papers Volume 2*, Cambridge, Cambridge University Press, 1985. For his discussion of Rorty see his 'Rorty in the Epistemological Tradition', in Malachowski ed., 1990, p. 257-275; and on Skinner see his 'The Hermeneutics of Conflict', in Tully 1988 ed., pp. 218-28. On historical issues more generally, see 'Philosophy and Its History' in Rorty et al eds., 1984, pp. 17-30.

24 Taylor in Rorty et al eds. 1984, pp. 18-20. In his typically engaging way, Taylor gives us an example - the need to recover the Aristotelian view which Descartes relegated to the 'trashcan of history'; we need to 'get the Aristotelian view into focus beyond the deformations of the late Renaissance which made it such easy meat for the rising epistemological view' (p. 20).

25 Charles Taylor, *Sources of the Self: The Making of the Modern Identity*, Cambridge, Cambridge University Press, 1989, p. 104.

unexpressed and cut off from the intersubjective web of discourse within which they can be defined and refined in relation to common meanings and contrasts. This is not to say that every language speaker simply accepts whatever shared meanings her linguistic tradition happens to embody, but that she responds reflectively in relation to the experiences of the self and the socially available articulations. Creative adjustments and/or revisions occur at moments like these, when we feel like we've 'climbed out' of a distorting situation, and this kind of activity is made all the more important in a society such as ours where modern 'naturalist' views 'suppress their own underlying visions of the good':

We have to try to trace the developments of our modern outlooks. And since we are dealing not just with philosophers' doctrines but also with the great unsaid that underlies widespread attitudes in our civilization, the history can't just be one of express belief, or philosophical theories, but must also include what has been called 'mentalites'. We have to try to open out by this study a new understanding of ourselves and of our deepest moral allegiances'.²⁶

Taylor attempts to provide us with taxonomies of 'residual selves', made up of the layers of past selves rejected and fused, since any 'transvaluation' of self in the name of some new 'hypergood' is never a once-and-for-all affair - the 'older condemned goods remain; they resist; some seem ineradicable from the human heart...the struggle and tension continues'.²⁷

The precise relation between these goods and our personal identity is not crystal clear in Taylor's most recent work, but what is clear is that our identities are inextricably linked to them in *some* way. Goods 'empower' the self in the sense that they enable it to transcend its 'restricted sympathies' and to move beyond subjective and objective distortions to a more clairvoyant state. Self-identification - at least in the strong sense that Taylor means - is only possible when the life one leads is one to which one can give one's fullest allegiance, which is a

²⁶ Ibid, pp. 104-5.

²⁷ Ibid p. 65. I have borrowed the term 'residual' selves from Harvey Mitchell, 'Charles Taylor on the Self, its Languages and its History', *History of Political Thought*, XII, 2. 1991, p. 344.

form of human attunement: 'our attempts to formulate what we hold most important must, like descriptions, strive to be faithful to something. But what they strive to be faithful to is not an independent object with a fixed degree and manner of evidence, but rather a largely inarticulate sense of what is of decisive importance. An articulation of this...tends to make it something different from what it was before'.²⁸ In 1985 Taylor asked (perhaps ingeniously): 'Is what we are articulating [here]...striving...to be faithful to something beyond us, not explicable simply in terms of human response?'²⁹ By 1989, this intuition is worked out slightly more. Given the 'tentative, searching, uncertain nature of many of our moral beliefs', i.e. the lack of any kind of firm ontological framework and the fact that we seem to have lost some of the swagger of our original Enlightenment post-providential vision of nature, there is a danger that without a sense of our moral 'sources' we risk living 'beyond our moral means' in maintaining an allegiance to our high standards of (say) justice without the ways of 'seeing-good' powerful enough to sustain them.³⁰ What can sustain them? Taylor reiterates in a number of places that it will have to be something beyond the purely 'immanent-human' since 'naturalist humanism' seems incapable of generating the necessary spiritual and motivational resources, and in fact is parasitic on theistic notions of benevolence and justice. Taylor's 'hunch' is that the most 'illusion-free' moral sources involve a God;³¹ indeed one might say that the only difference between a good and God for Taylor is one 'o'. The project then is to retrieve these 'buried goods' (those implicit in Judeo-Christian theism)

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28 Taylor 1985, Volume 1, p. 38 ('What is Human Agency?').

29 Ibid, p. 11.

30 Taylor 1989, p. 517. Taylor takes the issue of living beyond our 'moral means' seriously in that he sees it as producing self-destructive feelings of undischarged obligation and guilt, or its more ominous obverse, self-satisfaction. The literary example he returns to a number of times is Dostoyevsky, and particularly his book *the Devils*, which he sees as a brilliant exploration of how a profound sense of meaninglessness can engender a strong ideology of polarization and exclusion on the part of one group against a 'degenerate other' as it seeks to project its sense of unworthiness and evil outward in a desperate act of self-purification (see 1989, pp. 451-5, 516-17).

32 Taylor 1989, p. 342.

through re-articulation, to make these sources empower again, and bring the air back into the 'half-collapsed lungs of the spirit'.³²

There is much that is controversial and problematic here, not least Taylor's (now) explicit theism, though it must be noted that his is ultimately a liberal credo, and that his goal in returning to the past is not to discover ways of thought to supplant the Enlightenment but rather to supplement it in the context of late modern conditions. He is not, for example, an enemy of modern pluralism so much as a harbinger of the dangers it brings when it is lived unreflectively.³³ And ironically this sets him up to be criticized not only by liberals who can't stomach his espousal of Judeo-Christian spirituality as a source of renewal and the grounds for modern 'attunement', but also by those who reject the liberal story attached to his stubborn refusal to dismiss the 'epistemic gains' of the our modern moral culture's affirmation of 'ordinary life'.³⁴ I shall not pursue these points here, though I would like to point out that it is part of the goal of this thesis as a whole to provide a less progressive (and a less sweeping) account of our modern affirmation of liberty (for example) than Taylor implies. But the connection he makes between the notion of self-understanding and recovering the causal and conceptual bases of our way of thinking about our modern predicament is an important one, and at a very general level is similar to the kind of approach suggested by Skinner and others with regard to understanding the historical identity of

32 Ibid, p. 520.

33 See for example Taylor 1989, pp. 502-3: 'what emerges from [my account] of the modern identity...is not only the central place of constitutive goods in moral life...but also the diversity of goods for which a valid claim can be made...The dignity which attaches to disengaged reason is not invalidated when we see how expressive fulfilment or ecological responsibility has been savaged in its name...The trouble with most of the views that I consider inadequate...is that their sympathies are too narrow. They find their way through the dilemmas of modernity by invalidating some of the crucial goods in contest'.

34 This is part of Professor Skinner's attack on Taylor's argument, that in saying we can't help but affirm these modern constitutive goods, his account reads more like a 'vindication of modern bourgeois life', than a history of it. See Quentin Skinner, 'Who are "We"? Ambiguities of the Modern Self', [part of a symposium on *Sources of the Self*], *Inquiry*, 34, 2, 1991, 133-53, especially at pp. 141-2. Cf. Mitchell 1991, passim. The book has generated an enormous initial critical literature, some of which I shall be discussing further, below.

political argument.³⁵

And yet amongst all his discussion of the importance of hyper-goods for a deeper sense of 'attunement' with the moral vocabulary of post-Enlightenment modernity, a more sour-minded historian or reader might wince at the lack of consideration of the causal and practical elements of the conceptual story Taylor tells (i.e. more *mentalite* than *practicalite*). There is, alas, the more obvious possibility that we may even be incapable of discussing hyper-goods in the generous and sympathetic manner Taylor and others contend. We are still witness in our world to blatant attempts of cultural and philosophical absolutism (let alone political and economic), no more brutally evident than in the 'ethnic cleansing' campaigns being carried out in the former Yugoslavia.³⁶ In fact, our sensitivity to the rhetoric of expressivist accounts of our history is yet another element of our modern self-understanding; that a desire for attunement has nothing to do with some higher unity but with the discordance we sense between our sense of self and those identities which are 'officially' established for it.³⁷ This does not in any way rule out pursuing the notion of moral and public goods, but only that we are now drawn inescapably to consider all that which is excluded and subordinated in the process; if we are not drawn to do so ourselves, others will do so for us, and here the political issue (the confrontation) cannot be solved by complaining that such complaints lack a rational basis. This can be approached historically too (though of course not exclusively so), by providing accounts which stay low to the practical ground, and which

35 I do not want to underestimate the differences between Skinner and Taylor; Skinner's review of *Sources of the Self* is, on the whole, extremely critical.

36 Mitchell 1991, p. 352, is right to point out that Taylor underestimates how this kind of concern is an important aspect behind Habermas' desire to set aside questions concerning 'the best life' for a mature discourse ethic based on the universal acceptability of rational norms. See similar comments by R. Hittinger, 'Review of Sources of the Self', *Review of Metaphysics*, xliv, 1, 1990, 111-30, especially at p. 129. Cf. Taylor 1989, p. 98. This debate has precedents, of course, in the seminal natural law texts of the seventeenth century.

37 See William Connolly, 'Where the Word Breaks Off', in *Politics and Ambiguity*, University of Wisconsin Press, 1987, pp. 143-161, at p. 155. Taylor himself seems to be wrestling with this issue in work subsequent to *Sources of the Self*; see his *Multiculturalism and "The Politics of Recognition"*, ed. Amy Gutman, Princeton, Princeton University Press, 1992.

map the causal elements inherent in any conceptual or linguistic change. The point is to remain open to the possibility that the relationship between a conceptual and causal account is more porous than we may have originally thought, given the tendency to conceive 'our' values and standards as emerging uniquely from a set of transcendent universal values.³⁸ In the end, I think the force of this approach must rest on the claim that, in order to act reflectively from a strongly held belief, an appeal to look again (and again) at the emergence and use of this belief in our history is indispensable for the development of the kind of moral and political discourse to which we aspire. Michel Foucault summed this up well when he remarked that 'experience has taught me that the history of various forms of rationality is something more effective in unsettling our certitudes and dogmatism than is abstract criticism'.³⁹ Nothing follows from this which necessitates doing away with 'abstract criticism', but as a proposition about the efficacy of political argument in the face of the complexity and corruption of the world within which we live, it is not an implausible suggestion.

38 That the whole point of Skinner's approach to the history of political thought is in part to render the relationship between conceptual and causal accounts of our forms of political argument more ambiguous seems to have wholly escaped Jonathan Ree's entertaining (but misdirected) critique; see his review of Rorty et al eds. 1984, and particularly his discussion of Skinner's 'The Idea of Negative Liberty', in *History and Theory*, 25, 2, 1986, pp. 205-15, at pp. 209-211 (the quote at the top of this chapter is from this review). Ree is right however to stress that it is up to practioners of this kind of history to show that this is (or has been) the case.

39 Michel Foucault, 'Omnes et singulatim: Towards a Critique of "Political Reason"', in *The Tanner Lectures on Human Values, Volume II*, Salt Lake City, University of Utah Press, 1981, pp. 225-254.

Part 2

'Tradition is not something a man can learn; not a thread he can pick up when he feels like it; any more than a man can choose his ancestors.

Someone lacking a tradition who would like to have one is like a man unhappily in love.'

Ludwig Wittgenstein, *Culture and Value*

Chapter 6: Michel Foucault: early and late modern arts of government

'What are we calling post-modernity? I am not up to date'

Michel Foucault, 1983

6.0 Introduction

Michel Foucault takes each of our topics of investigation up to now - the historical identity of political argument, the relation between liberty and self, and the development of a modern art of government - to a certain extreme which I want to examine as a means of bringing these issues into sharper focus. It will be part of my general argument in this chapter that these are also central to Foucault's work as a whole, and thus I will be offering what could be said to be an unconventional reading of it.

Strictly speaking, then, I will not be discussing the political argument of post-modernism in general, but rather very specific aspects of the work of Foucault in relation to our previous discussions of liberty and self. Moreover, as we shall see, Foucault utterly rejected the central claims of 'post-modernism', and wanted nothing to do with the label 'post-modernist'. Lumping him into an amorphous catch-all category hinders our understanding of his ideas more than it helps, and is probably dishonest, given Foucault's explicit discussion of the matter.¹ But this is not to say he did not have a certain perspective on modernity - or 'late-modernity' - that is distinctive and important to him as a whole, and this will be the first order of discussion below. I then want to sketch the general contours of Foucault's understanding of power, and the related discussions of discipline, 'governmentality', and what he called *assujétissement* (roughly 'subject[iva]tion'). In doing so, we will be touching on points of convergence with the traditions of political and philosophical argument we have already examined (and will be examining), and most importantly with two questions outlined

1 The reader is right to ask why I have done so in my title. It is misleading and the only reason why it has not been changed is because it is too late to do so given the examination regulations of the University of London.

in the preface: What is the relation between the assumption in modern political theory of the agent as a given *a priori* substance and the community and institutions amongst which he or she is set (whether agreed to or not)? And secondly, what is the nature of the *practice* of our governing principles? By 'our', I mean mainly liberal democratic principles, some of the origins of which were discussed earlier, and the contemporary variants thereof which we will be discussing in more detail below. It is a distinctive characteristic of these principles, however, to make the claim that they are not just 'the way we do things around here', but that they are heirs to an Enlightenment tradition which makes claims on behalf of all Men. I will touch on this point as well. In each case, I want to show how Foucault develops and extends the concepts of liberty and self in relation to modern political theory and practice in the context of his own distinctive philosophical ethos in order to bring out more sharply just what is at stake in these arguments. What is of interest here is not only Foucault the 'fact-lover'², but Foucault the 'practice-lover'; apart from his more famous inquiries, he was also deeply interested in the practices of liberal government, and it might be that he poses some interesting questions. The issues he raises have been left under-developed by contemporary liberal theorists until very recently, and it is interesting to note a certain convergence of interests, or 'problematics' (as Foucault would say). Foucault's discussion has also been relatively under-developed (and sometimes ignored) by contemporary 'Foucaultians'. Contemporary liberal sensitivity to some of these issues, as we shall see, has often been ignored by these 'critical theorists', and this chapter (and the next) are meant as a modest corrective to that tendency.

2 The phrase is Ian Hacking's. 'The Archaeology of Foucault', in David Couzens Hoy ed., *Foucault: A Critical Reader*, Basil Blackwell, Oxford, 1986, p. 28.

6.1 Anxious questions and the enlightenment

Let us try to clear up the issue of Foucault and post-modernism. Sometimes this has been just a matter of intellectual sloppiness, the need to affix a convenient label to a thinker (or body of thought) no matter what he or she (or they) actually claim. It is rarely the case that any systematic discussion of what post-modernity might actually mean in theoretical terms precedes the pointing of the finger.³ Instead, it has become a catch-all phrase to be applied wherever there seem to be philosophical doubts about the nature of reason, truth, questions about the existence of some deep self, or any kind of reference to Nietzsche. Individually, these are all completely 'respectable' issues in philosophy with a long lineage of scholarly concern, but put together as a kind of anti-modernism or anti-foundationalism they invoke the fear of God (or more appropriately, the lack thereof) in the hearts of self-proclaimed heirs of the Enlightenment. Foucault has something to say about each of these issues, as we shall see, but not as part of some grand project against the Enlightenment or against 'grand narratives'. When asked whether he subscribed to the postmodern idea that reason was 'crumbling away' or was just 'one form of will to knowledge', Foucault answered that this was not his problem, and that he was 'not prepared to identify reason entirely with the totality of rational forms which come to dominate... in types of knowledge, forms of technique and modalities of government or domination.' To do so would be inappropriate, since 'how can we say that the forms of rationality which have been dominant in (these) sectors...are in the process of collapsing and disappearing(?) I cannot see any disappearance...I can

3 One obvious reason for this is that it still isn't clear what exactly 'post-modernism' means. For impressive attempts at definition though, see David Harvey, *The Condition of Postmodernity: an enquiry into the origins of cultural change*, Oxford, Basil Blackwell, 1989; and Jurgen Habermas, *The Philosophical Discourse of Modernity*, transl. Frederick G. Lawrence, Polity Press, Cambridge, 1985, especially pp.16-17, 41-44, 86-88, 238-293. My claim is that Foucault never attempted such definitions, nor did he accept the designation when it was offered as a characterization of his work. The point is not to see this refusal as some kind of ironical ploy, but to examine the reasons he provides and see if they are good ones or not.

see multiple transformations, but I cannot see why we should call this transformation a collapse of reason...there is no sense at all to the proposition that reason is a long narrative which is now finished'.⁴ In short, Foucault takes the Enlightenment seriously, and his own problems move around within its matrices, though always at its limits.

Foucault discussed the nature of the Enlightenment in two papers dating from 1983-4, parts of which he was using in his lectures at the College de France.⁵ His focus here was on Kant's 1784 response to the *Berliner Monatschrift's* question, 'What is Enlightenment?'. Kant's answer was that it was man's release from his 'inability to make use of his understanding without direction from another', and an ability to use one's own reason rather than submit to the authority - and the censorship and persecution which often follows - of others.⁶ As

- 4 'Structuralism and Post-Structuralism: An Interview with Michel Foucault (by Gerard Raulet)', transl. Jeremy Harding, *Telos*, 55, Spring 1983, p. 205. Cf. Michel Foucault, 'Omnes et Singulatim: Towards a Critique of "Political Reason"', *The Tanner Lectures on Human Values*: Vol. II, Salt Lake City, University of Utah Press (Cambridge University Press), 1981, p. 226: 'Shall we "try" reason? To my mind, nothing would be more sterile...it's senseless to refer to "reason" as the contrary entity to non-reason...such a trial would trap us into playing the arbitrary and boring part of either the rationalist or the irrationalist'; and pp. 242, 254. See also his interview 'Space, Knowledge, Power', in *The Foucault Reader*, ed. Paul Rabinow, Pantheon, 1984, pp. 248-9; and the general tone of his interview 'The Masked Philosopher', in *Michel Foucault: Politics, Philosophy, Culture: Interviews and other writings 1977-84*, ed. Lawrence D. Kritzman, Routledge, 1988, pp. 323-30. (hereinafter LDK).
- 5 'What is Enlightenment', transl. Catherine Porter, in *The Foucault Reader*, ed. Paul Rabinow, Pantheon, New York, pp. 32-50. 'Kant on Enlightenment and revolution', transl. Colin Gordon, *Economy and Society*, 15, 1, 1986, pp. 88-96. See also Colin Gordon's excellent introduction to the latter, 'Question, ethos, event: Foucault on Kant and Enlightenment', *Ibid*, pp. 71-87. Foucault discussed Kant's original essay ('Was ist Aufklärung?' 1784, transl. L.W. Beck in Immanuel Kant, *On History*, Bobbs-Merrill, New York, 1963) in all sorts of different places including various prefaces, articles, and interviews, though these two papers are the most extended discussions. It is important to read both papers together (as Gordon acutely points out), something most recent commentators have failed to do.
- 6 Kant, p. 3. This is brought out well by Hubert Dreyfus and Paul Rabinow, 'What is Maturity', in David Couzens Hoy ed, *Foucault: A Critical Reader*, Basil Blackwell, Oxford, 1986, p. 117: 'In a modernity-crisis, a taken-for-granted understanding of reality ceases to function as a shared background in terms of which people can orient and justify their activity and the modernist response is heroically and lucidly to face up to the collapse of the old order'. An example of the modern liberal interpretation of what is enlightenment can be found in a recent essay by Brian Barry ('How Not to Defend Liberal Institutions', *Liberty and Justice: Essays in Political Theory* 2, Clarendon Press, Oxford, p. 24): 'Liberalism is par excellence the doctrine of the Enlightenment...There is no definitive list, but I shall...suggest three ideas...First is the belief that inequalities are a social artefact, and therefore have to be justified on a basis that starts from a premiss of the fundamental equality of all human

Foucault puts it, Kant offered the Enlightenment as a way out of a state of 'immaturity' into one of 'maturity', whereby man takes over responsibility for using critical reason, which he then uses to unflinchingly examine his own cherished beliefs and those of society. Foucault notes that this is an entirely negative definition, that is to say, Kant is not defining the Enlightenment in relation to the 'dawning of a new world', but rather the state of our will in relation to contemporary reality alone: '(it) is defined by a modification of the preexisting relation linking will, authority, and reason'.⁷ It is also at this moment that it becomes necessary to sort out (through critique) what distinguishes a legitimate use of reason from that of dogma, heteronomy, and illusion, and, having done so, establish the ground upon which reason can be said to be 'autonomous'.⁸ This moment of critique is also the key moment of modernity, the attempt to establish the legitimate use and limits of reason. Foucault calls this the development of an 'attitude' or 'ethos' of modernity; a voluntary choice and mode of relating to contemporary reality which has less to do with distinguishing it from the 'premodern' or 'postmodern', and more to do with 'how this attitude of modernity...has struggled with attitudes of 'countermaturity'. For Foucault, what is important is the way Kant seems to connect 'from the inside' the significance of his work with knowledge, a reflection on history, and 'a particular analysis of the specific moment at which he is writing and because of which he is writing'.⁹ This feeling of modernity is a kind of 'vertigo', a break with tradition, involving both a specific relationship with the present but also with oneself. Modernity itself does not 'liberate man in his own being', but compels him to produce himself as an autonomous

beings. Second is the belief that every doctrine should be open to critical scrutiny, and that no view should be held unless it has in fact withstood critical scrutiny. And third is the belief that no religious dogma can reasonably be held with certainty'.

7 'What is Enlightenment?', p. 34-5.

8 Ibid, p. 38.

9 Ibid, pp. 38-9. Cf Foucault's comments when asked if he wrote *The History of Sexuality* for the liberation movement: 'Not for, but in terms of, a contemporary situation'. LDK 1988, p. 263.

subject in the context of a philosophical ethos involving the 'permanent critique of our historical era'.¹⁰ As an 'attitude' (a 'limit-attitude'), the Enlightenment is not tied to some doctrinal faithfulness, nor is it tied to a hidden essence of man that, once revealed, enables and guarantees our freedom and autonomy. I will discuss this last point in more detail below, since it needs to be carefully distinguished from the usual nihilist gloss given to it by numerous critics. Here I want only to note how Foucault links this 'attitude' (which obviously presupposes some kind of subject) with a 'permanent reactivation' of critique. Throughout his discussion of Kant, Foucault focuses sharply on the constructivist nature of Kantian ethics, and though his own formulations lead him far astray of Kant's metaphysics, Kant remains an important influence.¹¹

This is further suggested by Foucault's reading of another text of Kant's - 'The Conflict between the Faculties' (1798) - which he considered a ('kind of') sequel to 'What is Enlightenment?'¹² Foucault looked closely at part II of this essay - 'An Old Question Raised Again: Is the Human Race Constantly Progressing?' - which focused on the French revolution, i.e. What is (or was) the Revolution? In it, Kant attempted to show, via its sign and 'intimations', that there was some kind of constant progress of the human race. Of course, Kant's own political theory completely disallowed any right to revolution. Even in the case of a blatantly unjust ruler, the people could and should not resist, and could only hope that things might change for the better.¹³ It

10 Ibid, p. 42. For the discussion of the emergence of modern philosophies of history see Reinhart Koselleck, *On the Semantics of Historical Time*, transl. Keith Tribe, MIT Press, Cambridge Mass. and London, 1985. I am indebted to this excellent book.

11 See Ian Hacking, 'Self-Improvement', in *Foucault: A Critical Reader*, ed. David Couzens Hoy, Basil Blackwell, Oxford, 1986, p. 239. Foucault translated and provided a long introduction to Kant's *Anthropology* for presentation as his 'secondary thesis' in 1961. Kant also plays a large part in Foucault's *The Order of Things* (Vintage, New York, 1973).

12 *The Conflict of the Faculties*, ed. Mary J. Gregor, New York, Abaris, 1979. Part II of Kant's *The Conflict of the Faculties* is reprinted from the translation of Robert E. Anchor, in Lewis White Beck ed., *Immanuel Kant: On History*, Bobbs-Merrill, 1963. Cf. Foucault 1986, pp. 91-2.

13 See *Conflict*, pp. 92-3, 167, 169. Also, *Perpetual Peace* (Ted Humphrey, ed., transl., *Immanuel Kant: Perpetual Peace and Other Essays on Politics, History, and Morals*, Indianapolis, Hackett, 1983), pp. 353, 372; and *Religion Within the Limits of Reason Alone*

is not so much the 'event' or process of the revolution which is important (Kant deplored the execution of the King and Queen and the reign of terror), but the way it operated as a 'spectacle' drawing in and sweeping along those who were not themselves actually taking part.¹⁴ Being 'swept along' means here the acceptance by a large number of revolutionary 'spectators' of a sympathetic attitude towards those seeking out the principles of justice and freedom - a 'wishful participation that borders closely on enthusiasm'.¹⁵ In short, moral progress depended on the widespread adoption of a moral disposition underlying that way of thinking. In his lectures, Foucault isolated this point very carefully: 'enthusiasm for the revolution is...the sign of a moral disposition of humanity...(manifested in) the right of every people to provide itself with the political constitution which appears good to the people itself, and the...moral principle of a constitution framed in such a way as to avoid, by its very principles, all possibility of offensive war'. Together, the Enlightenment and the Revolution complement and continue each other and constitute two

(Theodore M. Greene and Hoyt H. Hudson, New York, Harper & Row, 1960), p. 7, 90.

14 'Kant on Enlightenment and Revolution', pp. 92-3.

15 *Conflict*, pp. 84-9, 151-61 (which is part II). 'Kant on Enlightenment and Revolution', p. 93. See the helpful discussion in Roger J. Sullivan, *Immanuel Kant's Moral Theory*, Cambridge, Cambridge University Press, 1989, pp. 233-60, p. 370 n.23. Foucault was also probably influenced by Francois Furet's, *Penser la Revolution Francaise* (Paris, Gallimard, 1978), which he mentioned in a discussion about the people's 'inner experience' of the Revolution (see LDK, p. 214). It is interesting to note here Foucault's interest in the Iranian revolution, about which he had written for the *Corriere della sera*, including visiting the exiled Khomeini in Paris along with other leaders, and visiting Iran twice in 1978 at the height of the troubles. In a 1979 interview (LDK, pp. 217-8) he talked about how the 'soul of the uprising' for the Iranians was not just to dump the Shah but 'above all...(for Iranians) to change ourselves. Our way of being, our relationships with others, with things, with eternity, with God...Islam...was like the promise and guarantee of finding something that would radically change their subjectivity...it was the spirit of a world without spirit.' Foucault was interested in the inner experience of the revolution - 'the specificity of what people experienced deep inside' - and not just the totality of economic and social transformations which exist long before and after any revolutionary event. Though always cautious, Foucault seemed taken by the possibilities of the revolution, calling it, for example, 'perhaps the first great insurrection against a planetary system', and alluding (disastrously as he later came to see) to the potential qualities of a Khomeini regime (see especially 'Le Chef Mythique', *Corriere della sera*, November 19). He was quickly rebuked for these remarks (as he should have been for they are pretty silly) however much he claimed they were couched in all sorts of qualification and philosophic abstraction. See the discussion in Didier Eribon, *Michel Foucault*, (transl. Betsy Wing), Harvard University Press, Cambridge Mass, 1991, pp. 281-291.

'unforgettable' moments; unforgettable because it reveals within human nature a disposition that is 'too important, too much interwoven with the interests of humanity and of too widespread an influence on every part of the globe not to be recalled to memory by the peoples'.¹⁶ It is not the content of the revolution that is important (since any revolution is capable of simply relapsing into the former 'rut'), but its existence as a spectacle attesting to a 'permanent virtuality' which cannot be ignored.¹⁷ Foucault is not simply endorsing Kant's texts, he is also interested in the questions they ask, and he takes great care to lay out and explore them.

What are the Foucaultian twists on these Kantian themes? The main one has to do with his interpretation of the limits of reason. For Kant, these are revealed as derivative from necessarily *a priori* formal structures, whereas for Foucault the 'necessary' conditions governing the use of reason are discoverable only by 'historical investigations into the events that have led us to constitute ourselves, and to recognize ourselves as subjects'.¹⁸ These investigations, which constitute the basis of the 'critique', are genealogical by design and archaeological in method, examples of which we find in his own books. Thus it is ridiculous, according to Foucault, to be 'for' or 'against' the Enlightenment (what he calls the 'blackmail of the Enlightenment'), since nothing can be taken as a 'simplistic and authoritarian alternative'. One is not either for the principles of rationalism or against them, as if one was inherently 'bad' and the other 'good', nor is there a way of introducing 'dialectical' nuances' to determine the good elements from the bad.¹⁹ Instead, given that we are beings who are to a certain extent determined by the Enlightenment, we must proceed with an analysis based on historical inquiries 'that are

16 'Kant on Enlightenment and Revolution', p. 94. Foucault quotes the entire passage from *Conflict* here.

17 'Kant on Enlightenment and Revolution', p. 95.

18 'What is Enlightenment?', p. 46.

19 Foucault's targets here are the 'postmodernists' who call themselves 'anti-rationalists', and members of the early and late Frankfurt School.

as precise as possible...oriented towards the "contemporary limits of the necessary"...toward what is not or is no longer indispensable for the constitution of ourselves as autonomous subjects'.²⁰ Foucault's 'anti-blackmail' stance is not very convincing, though, since it is obvious from the text how seriously he takes the Enlightenment commitment to critique and its relation to the practices of freedom. Though he distances himself from what passes as the traditional content of Enlightenment belief, and indeed denies that it is something like a set of doctrines, this is not to say he is 'anti-rational' or even 'anti-human' (it is important to be clear about this last point and I shall return to it shortly). Foucault's Enlightenment credo is basically this:

if the Kantian question was that of knowing what limits knowledge has to renounce transgressing, it seems to me that the critical question today has been turned back into a positive one: in what is given to us as universal, necessary, obligatory, what place is occupied by whatever is singular, contingent, and the product of arbitrary constraints? The point, in brief, is to transform the critique conducted in the form of necessary limitation into a practical critique that takes the form of a possible transgression...I continue to think that this task requires work on our limits, that is, a patient labour giving form to our impatience for liberty.

The last sentence is important; a little later in the same section, he restates the gist in a slightly different manner: '(the critique) is not seeking to make possible a metaphysics that has finally become a science; it is seeking to give new impetus, as far and wide as possible, to the undefined work of freedom'.²¹ Hints about the nature of this 'undefined work of freedom' come in Foucault's insistence that we can not settle for an 'empty dream of freedom' but instead engage in an 'experimental' and historical mode of inquiry which puts itself to 'the test of contemporary reality'. This means accepting the fact that we have never (and can never) wholly change our way of thinking or our entire vision of the world, and thus have to concentrate on 'specific transformations' in order to 'grasp the points where change is possible and desirable, and to determine the precise form this change should

20 'What is Enlightenment?', p. 43.

21 Ibid, pp. 45-6, 50. Cf. Hubert L. Dreyfus and Paul Rabinow, 'What is Maturity?', in David Couzens Hoy ed., 1986, pp. 117-8.

take'.²² Though we are capable of standing back and criticizing our practices (how else could we write archaeologies or genealogies about them?²³), the theoretical and practical experience that we have of these 'limits' and of the possibility of moving beyond them is itself 'always limited and determined...we are always in the position of beginning again'.²⁴ In disconnecting this ethos from any kind of doctrinal element, Foucault anchors it in a critical ontology of ourselves as historical beings; this 'beginning again' is always work carried out upon ourselves as free beings. The questions are what count: How are

- 22 Ibid, p. 46. Foucault places his own work in this context, saying he 'prefers' these specific and 'partial' transformations and investigations to the 'programs for a new man that the worst political systems have repeated throughout the twentieth century'. Cf. Foucault 1983 (*Telos*), p. 206 : '(viz any diagnosis of the nature of the present) does not come in a simple characterization of what we are but, instead...in managing to grasp why and how that-which-is might no longer be that-which-is...any description must always be made in accordance with these kinds of virtual fractures *which open up the space of freedom understood as a space of concrete freedom, i.e., of possible transformation*'. (my emphasis)
- 23 This needs some qualification. It is of some debate amongst Foucault scholars exactly what the relation between archaeology and genealogy is, and at what point Foucault embraced one instead of the other, or at least prioritized one against the other. This takes us deep into the heart of the relationship between Foucault and Nietzsche which is interesting and important (though not as straightforward as is often assumed) but not of direct relevance here. In general we might say that the two complement each other, as is evident even from Foucault's inaugural lecture at the College de France (*L'ordre de Discours*, Gallimard, 1971, pp. 70-2). It is true though that from *Discipline and Punish* and the first volume of the *History of Sexuality*, it is primarily Foucault the genealogist that we encounter. The genealogist does not look for untarnished origins or unchanging truths, but instead concentrates on uncovering strategies of domination which only ever leads to more interpretations, more strategies, and never to some essential nature. There is no singular logic to history, nothing calling subjects or events into being, though events do occur and subjects do exist and play their part; but this is all there is. Though the genealogist realizes he is 'produced' by what he is studying, and can never stand wholly outside of it, along with archaeology (which by definition requires stepping back in order to see the 'strangeness' of our practices) some kind of interpretive edge is gained, otherwise how could Foucault even begin to talk about historical inquiry as contributing to the 'patient labour' of the 'work of freedom'? The discussion of Nietzsche and genealogy can be found in two essays, 'Nietzsche, Marx, and Freud', in *Nietzsche*, Cahiers de Royaumont, Paris, 1967; and 'Nietzsche, Genealogy, and History', in Foucault 1984a, pp. 76-100. It is important to realize that, especially in the latter, Foucault is attempting to work through what Nietzsche said rather than making Nietzschean claims himself. See Foucault's comments on first reading Nietzsche and the general relationship between the texts and his work in 1983 (*Telos*). Cf. the careful discussion in Hubert L. Dreyfus, Paul Rabinow, *Michel Foucault: Beyond Structuralism and Hermeneutics* (2nd Edition), University of Chicago Press, 1983, pp. 79-125; Gordon 1986, especially pp. 78, 83; and Barry Allen, 'Government in Foucault', *Canadian Journal of Philosophy*, 21, 4, 1991, 421-440. See also Garry Gutting's (excellent) *Michel Foucault's Archaeology of Scientific Reason*, Cambridge University Press, 1989, pp. 277-8 [this is probably the best introduction to Foucault we currently have, though it concentrates only on his early work up to *The Archaeology of Knowledge* (1969)].
- 24 Ibid, p. 47. Cf. 'Kant on Enlightenment and Revolution', p. 89.

we constituted as subjects who exercise or submit to power relations? How are we constituted as subjects by our own knowledge, and as moral subjects by our own actions? Critique for Foucault is connected at a deep level with liberty, though in ways which are often frustratingly obscure and which I shall only note here very generally. The ethos of critique he sees emerging from Kant is based around the two questions of 'What is Enlightenment?' and 'What is to be made of the will to revolution?', the point being to see our 'critical interrogation' of them as an ontology of ourselves which is at one and the same time the 'historical analysis of the limits that are imposed on us and an experiment with the possibility of going beyond them'.²⁵ Taking the Enlightenment seriously means being committed to question what comes out of it. Foucault has a strong idea of what constitutes 'real critique'.²⁶

The catch is that the great promise of the Enlightenment ethos informing the acquisition by individuals of freedom-enabling capacities (i.e. autonomy), has been accompanied by a set of power relations and 'technologies'. These include the 'disciplines' and 'procedures of normalization', which are distributed in the context of 'practical systems'. 'Practical system' is a metaphor for describing a set of actions individuals carry out in a particular practical context (whether it be in an academic discipline, a specific kind of political system, prison, hospital etc.), including the forms of rationality that organize the various ways of doing things. These forms of rationality are partly what Foucault means by the 'technological' side of the system in that they play a part in organizing the ways of doing things. There is also the 'strategic' side, which is the freedom with which individuals act within these systems, whether by modifying the rules

²⁵ 'What is Enlightenment?', p. 50. 'Kant on Enlightenment and Revolution', p. 96.

²⁶ So much so that he complained openly in a 1982 interview (See Eribon 1991, pp. 294-5) about the way the larger publishing houses treated academic research, and how they subverted the dissemination of the 'very significant work' done in the universities. The problem was that there was no longer 'any sort of publication that can assume a real critical function...of showing work in motion, in its problematic form'. Cf. similar remarks in LDK, pp. 323-330, and the discussion in Gordon 1986, pp. 74-5.

of the game or reacting to the actions of others. These practical systems stem from three general areas which define not only the context of Foucault's discussion of power, which we shall be examining below, but also the scope of his work as a whole: relations of control over things, relations of action upon others, and relations with oneself, which in turn relate to the three axes of knowledge, power, and ethics.²⁷ Against the background of these general concerns, I shall be returning to one question he asks with particular force: How can the growth of capabilities on the part of individuals be disconnected from the intensification of relations of power?

I will have more to say about the connections between Foucault's ideas on the Enlightenment and his understanding of liberty and the individual below, especially once we have examined his concepts of power and 'discipline' in more detail. But before moving on, I want to return to the general question of a postmodern political argument. I have claimed that Foucault is difficult to classify as a 'postmodernist' on the grounds of his own rejection of the label, and the fact that he rejects the claim that the 'meta-narrative' of Enlightenment reason is somehow breaking up or collapsing. This distances Foucault from someone like Jean Francois Lyotard, or even Richard Rorty.²⁸ However Mark Warren, in the course of discussing Nietzsche, has provided an interesting definition of postmodernism which I have no hesitation in using to describe the kind of thing Foucault is doing, but would reject as defining anything radically post- or *contra* modern. Warren argues that Nietzsche's (and, by implication Foucault's) 'critical, postmodern understanding of power'

27 Ibid, p. 48.

28 Jean Francois Lyotard, *The Postmodern Condition: A Report on Knowledge*, transl. Geoff Bennington and Brian Massumi, Minneapolis, University of Minnesota Press, 1984. Richard Rorty, *Essays on Heidegger and Others: Philosophical Papers Vol. 2*, Cambridge University Press, 1991. Lyotard defines postmodernism as an 'incredulity towards metanarratives', where metanarrative means something like 'the dialectics of the Spirit, the hermeneutics of meaning, the emancipation of the rational or working subject, or the creation of wealth' (pp. xxii-xxiv).

draws into question our modern tradition of political thought...modernist discourse about politics relies on metaphysical assumptions about agents: they are subjects embodying natural desires and interests (Hobbes, Locke, and Bentham), as bearers of natural rights (Hobbes and Locke), as parties to a social contract...and as the epistemological foundation of rational action...liberal thought (such as [in] Rawls and Dworkin) relies on a version of Kant's intrinsically unknowable Idea of a rational subject, which serves to ground a social morality of rights and duties...The agent...(is) an abstraction (...a necessary presupposition) divorced from the social and cultural contexts that make agents what they are...Why are these assumptions problems for contemporary political thought?...the tradition cannot...live up to its own ideals...For liberal democracy to be morally viable...it must presuppose a society made up of selves with the capacity to choose and act. But one must know what capacities for agency are like if one wants to explain...how social relations could be altered to empower individuals to participate in political processes. One must...be able to explain how capacities for agency develop if one wants to show why some individuals in society have a relatively greater capacity for freedom of actions and self-determination than others. But rather than thinking through the relation between power and agency, modern political thinkers very often combine metaphysical assumptions about the subjective grounds of power (assumptions about desires, interests, rationality, and free will) with sciences purporting to explain the socially structured manifestations of power...if the conditional and worldly nature of agency cannot be theorized, then neither can the conditions under which agents might develop as free and rational beings...²⁹

Warren stretches his idea of the modernist account of metaphysical agency to include the entire Enlightenment tradition, and postmodernism to include all those approaches that do without it, or at least theorize against it.³⁰ Here notions like autonomy, individuality, and free will are removed from the realm of metaphysics and into the realm of 'human morals or goals' and, as goals, no longer have a 'natural' existence but instead become 'problematics'; i.e. a practical matter and a historically contingent achievement. I have quoted at length from Warren because I think he encapsulates well the kind of concerns I have been examining up to now in this thesis, both in republican political argument and in different variations of liberal political argument; I demur though from his suggested categorization of modernist and postmodernist political thought. However well it might work with regard to Nietzsche, it tells us very little about the 'modernist' theorists Warren mentions (Locke, Hobbes, Kant, Rawls, Dworkin), except to repeat rather standard complaints we find made by other postmodernists, as well as by

²⁹ Mark Warren, *Nietzsche and Political Thought*, Cambridge Mass. and London England, MIT Press, 1988, pp. 152-4.

³⁰ Ibid, p. ix.

communitarian liberals, and anti-liberals alike. In previous chapters I have tried to show how the concerns Warren identifies as characteristic of postmodern Nietzschean political thought are, in fact, constitutive of two major 'modernist' traditions of political thought. In the case of liberalism, both in terms of the characterization of its foundations in seventeenth century social contract theory and (as we shall see) the contemporary variants of Rawlsian and post-Rawlsian political theory, this has become obscured in various ways, something I have been working to make less so. It would be more accurate to say that there is a constitutive tension between an assumption of a particular kind of self on the part of certain liberal theories, and the practical and institutional means by which that self is constituted and realized. Indeed, as we shall see, Foucault was interested in just this aspect of liberalism, and especially the nature of the practices of liberal government. Contemporary liberal theories have dealt with this tension in a number of ways, whether explicitly as in liberal 'perfectionism', or more indirectly through 'neutralism' or some form of liberal activism. Perhaps Warren is right to indicate that it is only now that we are realizing the importance of these issues as the gap between the fundamental values and goals of contemporary liberal theory and the realities of our world seem to widen beyond redemption. But I would say this has more to do with our 'late-modern' condition than any postmodern one.

6.2 Foucault on power - I

Power is a slippery concept for any political theorist or philosopher, let alone one like Foucault, who insisted that he had no theory of power and always limited and qualified his use of the word with regard to very specific instances and practices. Before turning to examine what he did say about it, is there a general analytical conception of power used by other political theorists against which we can compare and contrast? The paradigmatic sense of power for modern politics comes from Hobbes and his characterization of the

relationship between an active agent and passive 'patient': the former causes or produces an effect in the latter.³¹ The point is that this is a negative or conflictual situation where *A* has power over *B*. Robert Dahl reset this basic idea in 1957 when he argued that power is fundamentally the ability to cause things to happen when the object is actions by other people, i.e. getting them to do things they would not otherwise do.³² Recently, Peter Morriss has provided a more subtle account in arguing that power is a 'sort of ability...your powers are capacities to do things when you choose', and thus a more accurate use of the concept would be something like '*A* has the power to do *x*', the crucial difference being the replacement of 'power to' for 'power over'.³³ Steven Lukes has taken a different line and argued against what he calls the 'one-dimensional' and 'two-dimensional' accounts of power in order to propagate his own (you guessed it) 'three-dimensional' view.³⁴ According to Lukes, his preferred account involves a thoroughgoing critique of the 'behavioural focus' of the other views which he sees as too individualistic, and offers a 'serious sociological and not merely personalised explanation of how political systems prevent demands from becoming political issues or even from being made'.³⁵ The issue here is one of identifying the real interests of individuals against those of the ruling caste or class who exercise power, and who might manipulate in covert ways the very interests would-be challengers might refer to, or fall back on, as their own. Perhaps the most comprehensive attempt at theorizing power remains that of Talcott Parsons, who divided the study of 'getting other people to do things you want them to' into four general areas - 'activation of

31 See 'Power' in David Miller, ed., *The Blackwell Encyclopaedia of Political Thought*, 1991, pp. 397-400.

32 Robert Dahl, 'The Concept of Power', in Roderick Bell, David V. Edwards, and R. Harrison Wagner (eds), *Political Power: A Reader in Theory and Research*, New York, Free Press, 1969, p. 80.

33 Peter Morriss, *Power: A Philosophical Analysis*, Manchester, Manchester University Press, 1988, pp. 32-5. Cf. Brian Barry, 'The Uses of Power' in *Democracy and Power: Essays in Political Theory I*, Oxford, Clarendon Press, 1991, pp. 307-21 (review of Morriss).

34 Steven Lukes, *Power: A Radical View*, London, MacMillan, 1974, pp. 15, 20.

35 Ibid, pp. 24, 38.

commitments', 'persuasion', 'inducement', and 'coercion'.³⁶ The ability to 'get people to do things' is different in each context, whether it be by invoking a set of commitments as in the first case, or physically restraining or constraining the actions of others, as in the last. Brian Barry has added another (combining Parson's 'inducement' and 'coercion'), which he calls 'physical constraint' (after Hobbes) and examines in the context of an economic/rational choice framework. Here power is the possession by an actor of the means of modifying the conduct of another actor; i.e. the exercise of power is the 'threat or promise by *A* of employing his means of modifying the conduct of *B* contingently upon *B*'s doing some action (or set of actions) out of the alternatives open to him'. For Barry (and to some extent, Morriss) power is a 'possession' or capacity and its exercise is the 'event', not *vice versa*.³⁷ It might be that some seek to exercise the power they have but through lack of skill (or whatever) fail to elicit the modification of conduct they sought. But all this shows is that from the perspective of the theory, knowing the distribution of power is only one part of an answer to the question of who has what and how in relation to power.

Does Foucault's account fit into any of these? And was he as concerned with the foundations of the concept as the theorists mentioned here are? The answer to the first question is, basically, no. Foucault attempted to provide a radically different account of the nature of power and the way in which to go about studying it. The answer to the second question is more complex. Foucault obviously needed some account of what he meant when he used the concept 'power', but eschewed developing any full theory of power, and indeed (as we shall see) avoided even using the singular term 'power', favouring the more nebulous 'relationships of power' (or 'power relations' etc.). This is because Foucault did not believe that something like 'Power' existed in a concentrated, or simply distributed, form, and

36 Talcott Parsons, 'On the Concept of Political Power', in Bell et al. 1969, pp. 251-84.

37 Brian Barry, 'Power: An Economic Analysis', 1991, pp. 222-229.

was unlike the sense of saying that it emanated from the consent of the people, or the will of the sovereign. This is not to say that consent was never a condition for the existence or maintenance of power, but that power is not *by nature* the manifestation of this kind of consensus. Power exists when it is put into action and the exercise of power is a way in which certain actions modify others. A relation of power is a kind of action that does not necessarily act immediately or directly on others, but acts on their actions, whether currently existing or ones which may arise in the future. Its 'real nature' is not reducible to some primal act of violence or locus of consent (though each might represent instances of specific forms of exercises of power), but rests on the idea of *conduct* - with all its multiple senses in both English and French ('to conduct oneself appropriately', 'to conduct an orchestra', 'to insist on proper conduct'). Thus,

In itself the exercise of power is not violence: nor is it a consent which, implicitly is renewable. It is a total structure of actions brought to bear upon possible actions: it incites, it induces, it seduces, it makes easier or more difficult: in the extreme it constrains or forbids absolutely: it is nevertheless always a way of acting upon an acting subject or acting subjects by virtue of their acting or being capable of action. A set of actions upon other actions.³⁸

There are a number of points to be drawn out here. This is no doubt a distant cousin of Morriss's conception of power which we examined above (a capacity to do *x* rather than a power always over *x*), but the scope of Foucault's claim makes it radically different. If a power relationship is any 'set of actions upon other actions', understood on a continuum which runs from the slightest manipulation to brutal violence, then it would appear that almost everything involves power. And this is precisely Foucault's point: 'in human relations, whatever they are...power is always present: I mean the relationships in which one wishes to direct the behaviour of another'.³⁹ Now this is the

38 Michel Foucault, 'Afterword: The Subject and Power', in Dreyfus and Rabinow 1983, p. 220.

39 'The ethic of care for the self as a practice of freedom', (Foucault 1984), p. 12. Cf. Foucault 1976 (HoS), p. 93: 'The omnipresence of power: not because it has the privilege of consolidating everything under its invincible unity, but because it is produced from one moment to the next, at every point, or rather in every relation from one point to another. Power is everywhere; not because it embraces everything, but because it comes from everywhere.'

standard launching pad for critiques of Foucault. How can the concept of power, or relationships of power, have any analytical value whatsoever if every human relation is one of power? More crudely, if power is 'always present', are we always being dominated or oppressed in some way - can we ever be free? Though the chapter as a whole is meant to be (in part) a working through of these two important questions, I want to sketch the beginnings of a response to the first, leaving the second until later. Firstly, we cannot use 'domination' or 'repression' as synonyms for power relations or exercises of power, since though they are possible instances of these relations they do not exhaust the possibilities of the conception. Foucault insists that a state of 'domination' is a distinctive kind of relationship of power, namely one in which the relations of power are fixed in such a way that they are 'perpetually asymmetrical and the margin of liberty is extremely limited'.⁴⁰ Whether a power relation is also a 'state of domination' is a matter for specific investigation, and thus it is wrong to simply equate the two. This will become clear (hopefully) when we turn to examine the relation between the subject and practices of liberty, though the reader might already see how our discussion of Foucault's idea of critique is relevant. The analytical value of Foucault's concept of 'power relations' is entirely dependent upon the acceptance of his radical reworking of what it means to speak about power. Instead of proceeding from the idea that power must be located or seen to be emanating from a given vantage point - 'people usually..think a political structure, a government, a dominant social class, the master facing the slave, and so on' - Foucault wants us to think of it always in terms of relations which are open, changeable, self-modifying, and never given once and for all.⁴¹ Perhaps most radically, Foucault also

40 Ibid, pp. 12-13; cf. 'The Subject and Power', p. 220 on distinguishing a relationship of power from one of violence.

41 'The ethic of care for the self as a practice of freedom', pp. 11-13. Also, 'The Confession of the Flesh (interview 1977), in Colin Gordon ed., *Michel Foucault: Power/Knowledge: Selected Interviews and Other Writings 1972-1977*, Great Britain, The Harvester Press, 1980, pp. 198-9. There is a good summary of Foucault's basic conception of power relations in Foucault 1976 (HoS), pp. 94-97.

argues that power is not only or essentially negative (i.e. constraining, disabling, repressing) but also 'positive' and productive, a process closely connected to the installation of a 'regime of truth', a field of discourse which enables the emergence of a specific kind of subjectivity or allows the elaboration of a particular rationality. Thus power is 'rooted deep in the social nexus', and not strictly 'above' or 'below' society; nor is it reducible to a particular set of institutions. Moreover, though at the 'local' level it is possible to see what actors are doing and why they are doing it, it does not follow that the consequences of their actions are coordinated at some broader level, and thus Foucault speaks about power relations as both 'intentional and non-subjective'.⁴² To bring to light the 'complex strategical relationships' of a particular society, one needs to provide oneself with a 'grid of analysis' for an 'analytic' of relations of power. This analytic operates 'toward a definition' of the specific domains formed by relations of power and provides the analytical instruments necessary to study them.⁴³

6.3 Foucault on power - II

Though absolutely central to his work, and perhaps the most identifiable element of what most people mean when they use terms like 'Foucaultian' (or Foucauldian or Foucaldian - appropriately enough no one seems to agree on the neologism), the analytic role of Foucault's conception of the 'relations of power' is difficult to pin down, all the more so since he claimed (only late in life) that it wasn't even his central problem but rather an instrument for the analysis of

42 Foucault tells Dreyfus and Rabinow (1983, p. 187): 'People know what they do; they frequently know why they do what they do; but what they don't know is what what they do does'. Cf. Foucault (HoS) 1976, p. 94.

43 Michel Foucault, *History of Sexuality Volume 1: An Introduction* (La Volonte de savoir), transl. Robert Hurley, Harmondsworth, Penguin, 1978 (1976), p. 82. See also 'The Subject and Power', p. 223-4 where Foucault provides a list of five points which need to be established in any analysis of power relations: the 'system of differentiation', the 'types of objectives', the 'means of bringing power relations into being', the 'forms of institutionalization', and 'the degrees of rationalization'.

relationships between subjects and 'games of truth'.⁴⁴ Before coming to that however, we need to unpack a number of things from this sketch of the 'relations of power' in order to be clear about the kind of 'analytics' Foucault is after. I want to isolate three elements: firstly, his discussion of 'the juridical'; secondly, the relation between power and 'regimes of truth'; and, finally, the relation between the subject and power.

It is important to understand how Foucault sees his analyses of power relations as an attempt to come to grips with the nature of the developments of late modern society in all its complexity. This is explicit in a number of places, but perhaps most clearly when he writes about the need to develop a 'new economy of power relations, a way which is more empirical, *more directly related to our present situation*, and which implies more relations between theory and practice'(my emphasis).⁴⁵ He insists that our traditional ways of understanding and speaking about politics, and the social sphere in general, have been overtaken by new developments which remain opaque and even invisible to the conventional analytical tools of the classical human sciences. Moreover, as we shall see, Foucault thinks that these very human sciences are as much part of the problem as they are the solution. But first, how does he characterize the conventional

44 See for example 'The Subject and Power' (1983), p. 208-9; 'The ethic of care for the self...', p. 10; and 'Technologies of the Self' in Luther H. Martin et. al., *Technologies of the Self: A Seminar with Michel Foucault*, Amherst Mass., University of Massachusetts Press, 1988, pp. 17-18. Colin Gordon has been the most unsparing in his dismissal of those who seek to periodize Foucault's work into variants of 'Early', 'Middle', 'Late'. See Gordon 1986, and his important 'Histoire de la folie: an unknown book by Michel Foucault', *History of the Human Sciences*, 3, 1, 1990, especially pp. 22-3. For a different account, which argues that there is a 'return to the subject' in the 'late' Foucault, see Peter Dews, *Logics of Disintegration: Post-Structuralist Thought and the Claims of Critical Theory*, London, Verso, 1987, pp.144-99; and 'The Return of the Subject in the Late Foucault', *Radical Philosophy*, Spring 1989, pp. 37-41.

45 'The Subject and Power', pp. 210-11. Cf. Foucault 1980, p. 198: 'The idea that there is either located at - or emanating from- a given point something which is a 'power' seems to me to be based on a misguided analysis, one which at all events fails to account for a considerable number of phenomena': and 1976 (HoS) p. 86; 'In a society such as ours, where the devices of power are so numerous, its rituals so visible, and its instruments ultimately so reliable, in this society that has been more imaginative, probably, than any other in creating devious and supple mechanisms of power, what explains this tendency not to explain the latter except in the negative and emaciated form of prohibition?'.
281

understanding of power? Foucault calls it the 'juridical', epitomised in the conception of power as an original right that is given up in the establishment of sovereignty, and in the idea of the contract as a 'matrix' of political power providing the points of this power's 'articulation'. Power becomes oppression whenever it over-extends itself, that is, goes beyond the contract.⁴⁶ Power rests with the legislator or the people and 'prescribes laws, prohibitions, and censorship in a strictly binary way - illicit and licit, permitted or forbidden, taboos or allowances'. Juridical power is a 'negative relation'; it does nothing except 'say no' and 'produces if anything, ...absences and gaps', and concerns itself with 'rejection, exclusion, refusal, blockage, concealment, or mask'. It is exercised from top to bottom, that is, in its over-all decisions and its 'capillary interventions' it acts in a uniform and comprehensive manner; whether the 'prince who formulates rights, of the father who forbids, of the censor who enforces silence, or of the master who states the law...one schematizes power in a juridical form, and one defines its effects as obedience'.⁴⁷ The paradigmatic image of power in western societies, then, is that of the legitimate rights of the sovereign and the legal obligation to obey, whereby we seek either to show that the effective power of that sovereign befits his fundamental right, or the necessity of imposing limits upon this power in order for it to remain legitimate. The key problem, around which the whole theory of right and sovereignty is organized, is to 'fix the legitimacy of power' as a means of neutralising or containing the domination intrinsic to power.⁴⁸ This is as true for early modern political theory (especially in its natural law variants), as it is today; 'In political thought and analysis, we still have not cut off the head of the king'.⁴⁹ But there is a need to break free of this image and the

46 Foucault 1980, 'Lecture 1, 7 January 1976', pp. 91-2; 1976 (HoS), p. 85.

47 Foucault 1976 (HoS), pp. 83-5.

48 Foucault 1980, 'Lecture 2, 14 January 1976', p. 95.

49 Foucault 1976 (HoS), p. 89. Cf. Michael Walzer's characterization of liberalism's 'art of separation', where modern society enjoys freedom and equality 'when success in one institutional setting isn't convertible into success in another, that is, when the separations hold, when political power doesn't shape the church or religious zeal the state, and so on.'

theoretical privilege of law and sovereignty according to Foucault 'if we wish to analyze power within the concrete and historical framework of its operation'.⁵⁰

Foucault's 'analytic' of power is geared to do precisely this, that is, to invert the conventional mode of analysis and show how the discourse of 'right' and its apparatuses - the whole complex of institutions and regulations - puts in motion relations of domination rather than sovereignty. Remember our discussion of Foucault's idea of power; the kind of 'domination' Foucault means here is in relation to subjects and their mutual relations, and not some uniform overwhelming force imposed from above. Power circulates and is employed and exercised in a 'net-like organization', with individuals always in a position of simultaneously undergoing and exercising this power, never just 'inert or consenting targets'.⁵¹ I will focus more closely on the relation between power and subjectivity below, but for now I want to concentrate on what Foucault means when he argues (with an amount of rhetorical flourish sure to mislead) that 'Right should be viewed...not in terms of the methods of a legitimacy to be established, but in terms of the methods of subjugation that it instigates'.⁵² Part of what he means is that what we usually think of as the beginnings of modern liberty in the early modern political theories of the seventeenth and eighteenth centuries (such as King-in-Parliament, natural rights, and some form of representative government), also marked the beginning of a new kind of power relation which escapes both the practices of Right and its accompanying analytic framework (i.e. the juridical). The emergence of this 'new type of power', a power with 'highly specific procedural techniques, completely novel instruments, [and] quite different apparatuses', makes it absolutely

Walzer, 'Liberalism and the Art of Separation', *Political Theory*, 12, 3, 1984, 315-30, at p. 321.

⁵⁰ Foucault 1976 (HoS), p. 90.

⁵¹ Foucault 1980, 'Lecture 2, 14 January 1976', p. 98.

⁵² Ibid, p. 96.

incompatible with the relations of sovereignty.⁵³ [There is a degree of overstatement here which is typical of genealogy; in the history of political thought it is hard to find the *sharp* ruptures and discontinuities that genealogy demands. Nevertheless, when we compare his remarks with my discussion of Locke's art of government in chapter 5, we shall find that the general point holds.⁵⁴] Foucault provides as concise a definition as he is capable of in one of his lectures from 1976:

This new mechanism of power is more dependent upon bodies and what they do than upon the Earth and its products. It is a mechanism of power which permits time and labour, rather than wealth and commodities, to be extracted from bodies...(it is) constantly exercised by means of surveillance rather than...by means of a system of levies or obligations...It presupposes a tightly knit grid of material coercions rather than the physical existence of a sovereign...It is ultimately dependent upon the principle...that one must be able simultaneously both to increase the subjected forces and to improve the force and efficacy of that which subjects them.⁵⁵

Foucault calls this a 'disciplinary power'. He describes the nature of this power in his vivid (and now famous) portrayal of Bentham's Panopticon (and much else) in *Discipline and Punish*. It is difficult at times to know whether Foucault means this as a metaphor for the development of modern power relations *in general* since the eighteenth century - that we are living in some kind of 'carceral society' - or whether it is strictly an example of the kind of specific research he insisted was necessary as part of his idea of critique. The ambiguity is heightened by his choice of Bentham's project, since though Bentham didn't mean it as a utopian or 'totalized' theory of society, he did intend for it to be considered for a wide range of different institutions and problems. For Foucault the Panopticon provides an exquisite example of disciplinary technology, bringing all

53 Foucault 1980, 'Lecture 2, 14 January 1976', p. 104.

54 Though Warren (1988, p. ix) thinks that Foucault was one of the few theorists to appreciate the force of Nietzsche's 'postmodern' claims with regard to modern subjectivity, he completely misses how Foucault blatantly contradicts his other claim that it is with Nietzsche, that approaches doing away with 'metaphysical characterizations of human agency' *begins* ('at least self-consciously'). My argument is that the tension between an assumption of 'self' and its realization in the context of various social practices is, in fact, constitutive of a large part of the liberal tradition, and (perhaps more obviously) republican political argument as well. Foucault (at least as I read him in relation to seventeenth and eighteenth century political thought) saw it this way too.

55 Foucault 1980, 'Lecture 2, 14 January 1976', p. 104.

those elements of this new power that he identified into one tightly knit framework; power, knowledge, control of the body, control of space, and constant surveillance all cohere in an efficient and economic exercise. It was an 'ideal form', a 'political technology of the body' which, though never actually built, could be detached from any specific use and elaborated with regard to all sorts of discourses and practices to do with specific forms and methods of correction and control.⁵⁶ The key to understanding disciplinary power is its focus on individual bodies; an 'anatomo-politics' of the human body which seeks the 'optimization of its capabilities', the 'extortion of its forces', the increase of its 'usefulness' and 'docility', and its integration into systems of 'efficient' and 'economic' controls.⁵⁷ Thus, far from simply repressing or excluding, disciplinary power produces a reality: '(t)he individual and the knowledge that may be gained from him belong to this production'.⁵⁸ Foucault commented that the intention of *Discipline and Punish* was to show how in the eighteenth century this form of power became possible and desirable, a technique for 'making useful individuals' in the context of the most central and productive sectors of society - factories, schools, the transmission of knowledge, the diffusion of aptitudes and skills, 'the war-machine'. As Dreyfus and Rabinow put it, disciplinary technology 'gradually overflowed its institutional bounds'.⁵⁹

But just how far does this overflow run? A complete answer will have to wait until towards the end of the chapter, but for now it appears that disciplinary power literally floods the whole of the social body. At the same time as the model of the contract and the juridical form of power became dominant in seventeenth and eighteenth

56 Michel Foucault, *Discipline and Punish: The Birth of the Prison*, transl. Alan Sheridan, New York, Vintage Books, 1979 (1975 Gallimard), p. 205, and p. 302: '(the prison is) a pure form, unadulterated and unmitigated'. There is a good discussion of these themes (to which I am indebted) in Dreyfus and Rabinow 1983, chp. 7 passim, pp. 188-195.

57 Foucault 1976 (HoS), p. 139. Foucault 1975 (DP), pp. 137-8.

58 Foucault 1975 (DP), p. 194.

59 Foucault 1975 (DP), p. 211. The comment by Foucault is in Dreyfus and Rabinow 1983, pp. 192-3.

century social and political theory, individuals began to be constituted as 'correlative elements of power and knowledge'.⁶⁰ Even though the theory of sovereignty and Right persisted as a permanent instrument of criticism of the monarchy, and of 'all the obstacles that can thwart the development of disciplinary society', the theory and its accompanying legal code allowed itself to be superimposed on mechanisms of discipline in such a way as to 'conceal its actual procedures, [and] the element of domination inherent in its techniques'.⁶¹ This process appears to be relentless, penetrating to the core of liberal democratic societies' most important legitimating theories and values:

the development and generalization of disciplinary mechanisms constituted the other, dark side of these processes. The general juridical form that guaranteed a system of rights that were egalitarian in principle was supported by these tiny, everyday, physical mechanisms, by all those systems of micro-power that are essentially non-egalitarian and asymmetrical that we call the disciplines...[T]he disciplines provide, at the base, a guarantee of the submission of forces and bodies. The real, corporeal disciplines constituted the foundation of the formal juridical liberties. The contract may have been regarded as the ideal foundation of law and political power; panopticism constituted the technique, universally widespread, of coercion...The 'Enlightenment', which discovered the liberties, also invented the disciplines.⁶² For Foucault, the answer to the question 'What holds modern civil society together in the way that 'The Good' held premodern societies together?', is that discipline (and all its apparatuses) does. At this point we must introduce another Foucaultian term of art which is closely related to discipline and its subversion of law - 'normalization'. To understand this we must have a sense of the relation between power and knowledge. It is important to note that Foucault never simply equates power and knowledge in some generic formulation such as 'reason is power' or 'power is knowledge'; it is precisely the nature of the relation which is of interest.⁶³ Knowledge (*savoir*) means

60 Foucault 1975 (DP), p. 194.

61 Foucault 1980, 'Lecture 2, 14 January 1976', p. 105.

62 Foucault 1975 (DP), p. 222.

63 See for example Foucault 1983 (*Telos*), p. 210. Also LDK, p. 264: 'I know that, as far as the general public is concerned, I am the guy who said that knowledge merged with power, that it was no more than a thin mask thrown over structures of domination and that those structures were always ones of oppression, confinement, and so on. The first point is so absurd as to be laughable. If I had said, or meant, that knowledge was power, I would have said so, and, having said so, I would have had nothing more to say, since, having made them

something other than knowledge of why *x* in the context of theory *y*, it is a 'depth knowledge', which enables a particular utterance, or in more Foucaultian terms, defines the field of reference.⁶⁴ It becomes less a matter of discovering who says what and more one of determining the conditions under which certain kinds of propositions will have a 'truth' value. It does not matter whether or not these discourses or programs are ever actually enacted, since it is their elaboration which is significant, the presupposition of a 'knowledge' and a particular reality in which to intervene, to act upon, or to bring into being.⁶⁵ Foucault's idea of truth brings us back to the question of power. The relations of power which constitute and permeate the social body cannot themselves be established or consolidated without the 'production, accumulation, circulation and functioning' of 'discourses of truth'. 'Truth', then, is related to discursive and non-discursive structures; and more specifically, 'we are forced to produce the truth of power that our society demands, of which it has need, in order to function: we must speak the truth; we are constrained or condemned to confess or to discover the truth'.⁶⁶ Each society has its own 'regime of truth', the types of discourses which it accepts as true, the mechanisms to distinguish between true and false statements, the techniques and procedures necessary to acquire the truth; in short, a 'political economy of truth'.⁶⁷ This is no less true for societies

identical, I don't see why I would have taken the trouble to show the different relations between them'.

65 The phrase is Ian Hacking's, 'The Archaeology of Foucault', in David Couzens Hoy (ed.) 1986, p. 30.

65 See Colin Gordon's interesting comparison of Foucault and Hirschman on this, in Foucault 1980, 'Afterword', pp. 247-9.

66 Foucault 1980, 'Lecture 2, 14 January 1976', p. 93.

67 Foucault 1980, ('Truth and Power', an interview), p. 131. This is not to say that Foucault is a global skeptic or a 'monolithic relativist' (for this claim see Charles Taylor, 'Foucault on freedom and truth', *Philosophical Papers Vol. 2*, Cambridge, Cambridge University Press, 1985, pp. 152-84). The point of his work is to examine the *specific* instances of how games of truth can put themselves in place and be linked to relationships of power. It is not an assault on the nature or possibility of truth *tout court*. Foucault admits that it might be the case, for example, that there is some kind of scientific validity or therapeutic efficacy to psychiatry, or that mathematics has some kind of validity. But it might equally be the case that both are linked in very specific ways to games and institutions of power; in any case, 'one can in no way say that the games of truth are nothing else than games of power'

organized around the principles of Right. At the same time that power is exercised through these principles, it is exercised simultaneously through various techniques and discourses of discipline which function as procedures of 'normalization'. Normalization could be said to be the effect of specific disciplinary technologies; it describes the process through which discourses cohere and establish common goals, procedures, and definitions.

It is those points at which sovereignty and the normalizing discourses and technologies meet and become increasingly incompatible that interest Foucault. The identification of the 'delinquent', for example, was a case whereby the process of punishing the offensive act (in relation to some juridical code) became less important than identifying and then curing his specific (i.e. deviant) individuality.⁶⁸ To do so meant establishing a discourse within which the problem could be set, standards and norms to which it could be compared and contrasted, and experts to interpret and modify all of this as circumstances dictated. It is the discourses and practices of the human sciences involved here - psychiatry, criminology - along with the development of the Panopticon etc., that Foucault claims is new. This kind of power escapes the analytic framework of sovereignty and rights, since it is focused on the minute workings of the body or subject which the former presupposes as basically intact or inviolable. But the argument is even stronger than this. It is not just that rights discourse misses the real workings of disciplinary power, but that it is itself a particularly efficient mask and conductor of this power; 'sovereignty

(Foucault 'The ethic of care for the self...', p. 16; cf. p.17). Confusion arises when commentators try to read into Foucault the claim that any connection between an objective body of knowledge and nondiscursive social practices implies some kind of 'will to truth' which vitiates any possibility of objective validity. But Foucault makes no such claim. Truth is attained in all sorts of different ways connected to all sorts of different social structures and power-mechanisms, but it does not follow that every such truth produced necessarily remains relative to that structure. Regimes produce truths to suit its power structures, but this does not exhaust the potential validity of the truth-claim, since Foucault allows that some might achieve some objective validity which transcends the particular regime. See Gutting 1989, pp. 272-80.

68 See Foucault 1975 (DP), pp. 251-55.

and disciplinary mechanisms are two absolutely integral constituents of the general mechanisms of power in our society'.⁶⁹ We are again brought to the brink of thinking that the juridical liberties, which have for so long been the bulwark of liberal democratic political theory and practice, are not only utterly non-transcendental or universal, but act in concert with an insidious form of power/knowledge:

We have entered a phase of juridical regression in comparison with the pre-seventeenth-century societies we are acquainted with; we should not be deceived by all the Constitutions framed throughout the world since the French Revolution, the Codes written and revised, a whole continual and clamorous legislative activity: these were the forms that made an essentially normalizing power acceptable.⁷⁰

This conception of power/knowledge and its disciplinary/normalizing technologies does not bode well for the Foucaultian self. Deducing from the above, it would appear that whatever it is, any content this self might have is the product of power relations beyond the control of the individual, or even the benign guidance of a legislator. The self is trapped within a discourse about itself which purports to be the means towards self-understanding and clairvoyance (the languages of which are provided and aided by various human sciences), but which in fact act to enhance and/or extend the disciplinary effect of non-sovereign power relations. Thus it is almost doubly trapped; trapped within the various institutional matrices of the social order as well as within itself, unable to appeal to any discourse of self-understanding or 'higher self' to help in transcending its immediate predicament. This seems to be only reinforced by Foucault in passages such as these:

The individual is not to be conceived as a sort of elementary nucleus, a primitive atom, a multiple and inert material on which power comes to fasten or against which it happens to strike, and in so doing subdues or crushes individuals. In fact, it is already one of the prime effects of power that certain bodies, certain gestures, certain discourses, certain desires, come to be identified and constituted as individuals...The

69 Foucault 1980, 'Lecture 2, 14 January 1976', p. 108. Note that law is not reducible to power or *vice versa*, it is an instrument of power in all sorts of complex ways amongst different kinds of non-juridical mechanisms. Even Foucault (Foucault 1980, 'Powers and Strategies' (an interview), pp. 140-1) is dissatisfied with the claim that in some simple sense law is always a mask for power in Western societies, since it is clear that 'political thought was ordered for centuries around the problem of Sovereignty and its rights...[L]aw, particularly in the eighteenth century, was a weapon of the struggle against...monarchical power...(and) law was the principal mode of representation of power (and representation should not be understood here as a screen or an illusion, but as a real mode of action).'

70 Foucault 1976 (HoS), p. 144.

individual which power has constituted is at the same time its vehicle...

The carceral network constituted one of the armatures of this power-knowledge that has made the human sciences historically possible. Knowable man (soul, individuality, consciousness, conduct, whatever it is called) is the object-effect of this analytical investment, of this domination-observation.⁷¹

Foucault's most famous attack on 'Man' is no doubt that in *The Order of Things*, where he claimed that 'man is an invention of recent date', and that if the fundamental arrangements of knowledge (*savoir*) which produced him were to disappear, then 'he' would be erased, 'like a face drawn in sand at the edge of the sea'.⁷²

6.4 The subjectivity that dare not speak its name?

It would appear, then, that given the discussion up to now of Foucault's conception of power-knowledge and its implication for any concept of self or self-understanding, and more generally its subversion of our traditional political theories of rights and popular sovereignty, we are left with a bleak vision of our contemporary world, a virtual modern carceral society. This is where many commentaries on Foucault stop, and it is not too difficult to see why when we read some of the passages quoted above. However, I think this is an overwhelmingly one-sided and incomplete reading (though not suprising given the tortuous prose of some of Foucault's earliest texts), and, moreover, is in danger of missing the more fundamental aspirations of his critique. Once again the key lies in his discussion of the relation between his understanding of power-truth-self-liberty, and the way in which each concept exists as a condition of the other.

Let us begin with power. In each instance where Foucault talks of relations of power he also talks about resistance and liberty, in fact they are conditions of each other's existence. This is implied in his characterization of power relations as strategic and modifiable; that is to say, not simply repressing or dominating but creating and reacting to its own effects on its 'object', whether it be a set of institutions, a

71 Foucault 1980, 'Lecture 2, 14 January 1976', p. 98; 1975 (DP), p. 305.

72 Foucault, *The Order of Things: An Archaeology of the Human Sciences*, New York, Vintage Books, 1973 (Gallimard 1966), p. 387.

specific group of persons, or an individual acting on himself. But it is also explicit in the formulation of the conception to begin with. There cannot be relations of power unless those subjects to it are free in some sense, since how could the operation of power be said to be 'strategic' if it was simply a system of domination which controlled everything?⁷³ Power can only be exercised over another to the extent that the subject still has an option of acting otherwise, since, if there are no such option(s), there would be no *relation* of power. Thus, 'if there are relations of power throughout every social field it is because there is freedom everywhere', and the point of analysing 'power-mechanisms' such as asylums, prisons, or sexual discourses, is not to show some 'built-in tendency' of power as being 'at once anonymous and always victorious...[but] rather of establishing the positions occupied and modes of actions used by each of the forces at work, [and] the possibilities of resistances and counter-attack on either side'.⁷⁴ Every power relation implies (*in potentia*) a certain counter- 'confrontation strategy', which establishes 'a kind of permanent limit' or frontier for the relationship of power. A confrontation ends when 'stable mechanisms replace the free play of antagonistic reactions', that is to say, when the practices and discourses of a set of power-mechanisms can direct (or at least 'effect') the conduct of others. On the other hand, the limit of a power relation is reached when, instead of manipulating and inducing a certain kind of conduct, 'it' has to react to a conduct *after* the event, so to speak.⁷⁵

The task, according to Foucault, is not to emancipate truth from every system of power, which is a chimera, but to *detach* the power of truth from the 'forms of hegemony, social, economic, and cultural,

73 Cf. 'The ethic of care for the self...', p. 12; 'The Subject and Power', p. 221: 'Where the determining factors saturate the whole there is no relationship of power; slavery is not a power relationship when man is in chains. (In this case it is a question of a physical relationship of constraint)'.

74 Foucault 'The ethic of care for the self...', pp. 12-13; 1980, pp. 164-5. Cf. 'The Subject and Power', p. 220; 1980, p. 142; 1976(HoS), pp. 145, 157.

75 'The Subject and Power', p. 225.

within which it operates at the present time'.⁷⁶ Hence the attempt in *The Order of Things* to provide an archaeology of the ways in which the discourses of Man (the human sciences) constitute a new field of truth and its accompanying 'objects' unlike their pre-Revolutionary and Renaissance predecessors. Hence, also, the way in which, dissatisfied with emphasizing merely discursive conditions, Foucault plunged into the investigation of the non-discursive and material conditions of the production of discourses and truth, evident in the lectures, interviews and books with which we have been dealing in this chapter. I take it that what he means by 'detaching' the power of truth (note that this is not the same as detaching truth *from* power) from forms of hegemony is the sense of engaging in the kind of critique we outlined above in 6.1, that is, in getting to grips with each relation of power and its truth in all its specific and practical circumstances. Once something is no longer taken as 'natural' or as 'necessary', a grip is loosened, though only in the very specific sense that Foucault constantly invokes, and never ultimately into some marked-off sphere of Freedom.

But who is to make these investigations and to engage in these struggles if the individual or subject is simply the 'object-effect' of power and domination? Once again it is important to put Foucault's claims about the relations between power/knowledge and the subject into careful perspective. When we read passages such as the ones quoted in section 6.3 about how the juridical liberties of the Enlightenment brought with them the disciplines, and how the individual or 'Man' is the 'object-effect' of power, it is easy to read them as making a claim about mankind *in toto*, or the nature of individuality as such. But this is to miss the crux of Foucault's claims about the subject, though he makes it easy to do so given the provocative tone of his remarks. Perhaps we need a Foucaultian analysis of Foucault's own texts here. The 'effect' of his rhetoric has

⁷⁶ Ibid, p. 133. Foucault outlines five traits of the three forms of hegemony at p. 131.

been to suggest that subjectivity, as such, is obliterated by the relations of power and domination in modern disciplinary society, and has even led one of his most able commentators to argue (in his defence no less) that Foucault's study of the 'history of forms of rationality imposes a certain bias which necessitates greater attention being paid to forms of domination than to forms of insubordination'.⁷⁷ This is an odd way of putting an important point. There is nothing 'necessary' about the attention Foucault paid to discipline and domination, it was his own choice; and, as I have tried to show, it is not 'necessary' to focus on forms of domination more than forms of insubordination since the two are not separable into mutually exclusive spheres of analysis. In the understatement of his career (at least from my perspective), Foucault wrote in 1982: 'perhaps I've insisted too much on the technology of domination and power'.⁷⁸

When Foucault speaks about subjectivity or individuality in the context of the human sciences and the disciplines, he is mainly considering the nature of 'Man' in a very specific sense which he links with 'humanism'. By 'humanism', Foucault means a set of themes that have reappeared in European history in all sorts of different contexts from 'Christian humanism' to 'Marxist humanism', within which (at least since the seventeenth century) there has been a specific conception of the person borrowed from doctrines of religion, science, or politics.⁷⁹ More precisely it is an idea of being linked to a complex and reflexive interiority which is simultaneously the object and subject of an elaboration by the newly emerging human sciences, a sense of

77 Gordon in Foucault 1980, 'Afterword', p. 255. However, Gordon does go on in subsequent pages to speak about the importance of resistance in Foucault's work.

78 Michel Foucault, 'Technologies of the Self', in Luther H. Martin et al. ed. *Technologies of the Self: A Seminar with Michel Foucault*, Amherst Massachusetts, University of Massachusetts Press, 1988, p. 19. Cf. Foucault 1984 (*Reader*), p. 380.

79 Foucault, 'What is Enlightenment', pp. 44-5. See also 'Truth, power, self' (interview) in Luther H. Martin et al. ed., 1988, p. 15. Foucault is not the only one to have identified a number of humanisms: see Charles Taylor, 'Marxism and Socialist Humanism', in *Out of Apathy: Voices of the New Left Thirty Years On*, ed. Oxford University Socialist Discussion Group, London, Verso, 1989, pp. 61-70, especially pp. 62-3; also Susan Mollor Okin, 'Humanist Liberalism', in *Liberalism and the Moral Life*, Cambridge Mass., Harvard University Press, 1991, pp. 39-53.

self Foucault claims wasn't present (at least self-consciously) before the nineteenth century.⁸⁰ Once again Foucault's chronology is wildly off-mark, but the thrust of his comments has to do with disputing the particular conception of Man that is at stake in the various kinds of humanisms, and not with denying all forms of human agency as such.⁸¹ This is what he means when he writes that the Enlightenment (in the sense that we outlined in 6.1) and humanism are in 'a state of tension rather than identity', or when he argues that the goal of contemporary thought must be to promote 'new forms of subjectivity through the refusal of the kind of individuality which has been imposed on us for several centuries'.⁸² This questioning of 'Man' hardly extinguishes man himself, for it is precisely the activity of questioning which is the ethos of modernity with which Foucault seeks to engage: 'My objective...has been to create a history of the different modes by which, in our culture, human beings are made subjects'. The importance of this point cannot be underestimated.⁸³

This explicit emphasis on subjectivity increased towards the end of Foucault's life, as he focused increasingly on what he called the 'practices of the self', the way in which a human being turns him or herself into a subject. This is a general theme of Foucault's last books

80 See Michel Foucault, *The Order of Things*, New York, 1973, especially at pp. 352-5, 364-5.

81 Thus I think it is slightly misleading to say that Foucault rejects or condemns the entire historical development of what Charles Taylor calls 'humanitarianism', or the 'affirmation of ordinary life'. Foucault's idea of humanism is certainly part of this process, but is not reducible to it. See Taylor 1985, p. 155; 1989 *passim*.

82 'What is Enlightenment', p. 44; 'The Subject and Power', p. 216.

83 'The Subject and Power', p. 208. This makes Foucault's spectacular influence on American academia - especially amongst literary theorists - less ironic than is normally (and gleefully) pointed out by commentators as a self-refuting example of the non-disappearance of the author. See for example, Stephen Greenblatt's 'big bang' account of the influence that Foucault's 1980 lectures at Berkeley had on the development of the 'New Historicism', in 'Towards a Poetics of Culture', *The New Historicism*, ed. H. Aram Veenser, London, Routledge, 1989, 1-14. See also Sean Burke's superb *The Death and Return of the Author: Criticism and Subjectivity in Barthes, Foucault, and Derrida*, Edinburgh, Edinburgh University Press, 1992. The most recent wave of Foucault scholarship takes off from a more biographical level. Here the goal is to try and draw connections between Foucault's legendary reticence and supposed attack on the self, and his own *rapport-a-soi*, especially with regard to his homosexuality. See for example, Jerrold Seigel, 'Avoiding the Subject: A Foucaultian Itinerary', *Journal of the History of Ideas*, April/June 1990, pp. 273-299; and more controversially, James Miller, *The Passion of Michel Foucault*, New York, Simon and Schuster, 1992.

(Volumes II, III, and IV of the *The History of Sexuality*) and a number of important essays and interviews. The intention seems to have been to follow up on his claim that there was no universal form of the subject found everywhere, but instead one constituted through practices of subjection, or indeed through 'practices of liberty', on the basis of 'rules, styles, [and] inventions' found in the political and cultural environment.⁸⁴ This latter claim is put forward with some complexity in the course of a wide reading of ancient Greek and Roman texts, the context of which I have no intention of recapping here, although I will outline the more relevant (and general) contours of the argument.

In some of his last interviews it became clear that Foucault had arrived at a general picture of three areas of investigation which his work had covered, the third being (after truth and power) 'an historical ontology in relation to ethics through which we constitute ourselves as moral agents', i.e. the problem of individual conduct.⁸⁵ Foucault's conception of 'ethics' is odd but suggestive; it is a *rapport a soi*, whereby an individual constitutes himself as a moral subject of his own actions.⁸⁶ We usually take 'ethics' to imply a set of standards or principles by which a particular group or community regulates its behaviour, or distinguishes legitimate from illegitimate conduct, such as in 'Christian ethics' or 'medical ethics'. Foucault reduces the scope considerably to those rules and activities we apply to ourselves and that go into the making of our conscience, or, as he puts it, the making of ourselves as a 'subject of ethical conduct'. His genealogy of sexuality, or more accurately his genealogy of desire as an ethical problem, provides a case-study of just such a process, and an issue with much contemporary relevance as well. Very broadly, what interests Foucault

84 LDK, pp. 50-1.

85 Foucault, 'On the Genealogy of Ethics: An Overview of Work in Progress' (interview) in Dreyfus and Rabinow 1983, p. 237; cf. *The History of Sexuality, Volume 2: The Use of Pleasure*, Harmondsworth, Viking, 1984, pp. 6-13; and 'The Return of Morality' (his last interview), LDK, pp. 243, 257.

86 *The Use of Pleasure*, p. 251; 'On the Genealogy of Ethics', p. 238.

here is a period when the 'ethical substance' and mode of subjectivation (*mode d'assujettissement*) of individuals had less to do with a general Morality or prohibitive code, and more to do with an 'art of existence' or 'technique of self':

What I mean by the phrase(s) are those intentional and voluntary actions by which men not only set themselves rules of conduct, but also seek to transform themselves, to change themselves in their singular being, and to make their life into an *oeuvre* that carries certain aesthetic values and meets certain stylistic criteria...it seemed to me that the study of the problematization of sexual behaviour in antiquity could be regarded as a chapter - one of the first chapters - of that general history of the "techniques of the self".⁸⁷

Foucault always rejected any simple 'back-to-the-Greeks' stance as an account of his motivation for returning to these texts, although he did see something in the questions they posed that 'inaugurated searches we are engaged in today', since we can no longer organize our society around singular ideas of the good, or at least cannot seem to discover a form of morality acceptable to everybody in the sense that everyone should submit to it, a search Foucault says would be 'catastrophic'.⁸⁸ Foucault claimed that in classical ethics nobody was obliged to be truthful to their wives or to refrain from touching boys, but that if they wanted to have a good reputation and a 'beautiful existence, they had to engage in a certain *mode d'assujettissement*. Now in relation to Greek classical ethics, sexual behaviour was constituted as a domain of ethical practice in the form of the *aphrodisia* - the sum of acts, desires, and pleasures situated in an 'agonistic field of forces' to be controlled. The 'austerity' that was required in order to be a self-disciplined, and thus a successful subject, was not presented in the form of a universal law, but as a 'principle of stylization of conduct', albeit for only a select group of citizens for whom a *techné tou biou* could be a real

87 *The Use of Pleasure*, pp. 10-11.

88 Here is an important difference between Foucault and some of the contemporary liberal theories we will be examining in the next chapter. For contemporary liberal theorists maintain that the only way of surmounting the problems of incommensurable conceptions of the good is to seek some set of principles or procedures to which everyone can agree to submit, even given all their differences. A 'catastrophe' is a society with no such principles or procedures.

possibility.⁸⁹ This 'care for self' has obvious political implications too; Socrates tells the young Alciabiades that if he is to achieve his ambitions as a political leader he must 'take care of himself' in the sense of submitting to someone who can help him gain the *techne* of leadership, such as the right meaning of the rule of law, concord, and justice. The 'self' is a modern import here since what is actually being talked about is the soul, and the activity which is the 'care of the self' is really the contemplation of the divine element in which the soul consists in order to discover the basis for just behaviour and political action. Instead of asking 'What is the self?', the question becomes 'What is the plateau on which I shall find my identity'? Alciabiades will be a good politician insofar as he contemplates his soul in this manner.⁹⁰ More generally, 'care for the self' does not imply any kind of solipsism; quite the opposite. Taking good care of oneself necessarily implied a complex relation with others, since the *ethos* of the good man (what Foucault calls the 'concrete expression of [his] liberty') included the know-how of governing his home, and occupying one's appropriate role and place in the city.⁹¹ Foucault sometimes calls this work on the self 'asceticism', i.e. that a subject could not have access to the truth unless he had carried out the necessary work to make himself susceptible to it; 'no access to truth without ascesis'.⁹²

The genealogy Foucault traces is basically how this ethic of 'care for the self' (and more specifically its relation to the discourse on sexuality)

89 *The Use of Pleasure*, pp. 250-3; Michel Foucault, *The History of Sexuality Volume 3: The Care of the Self*, transl. R. Hurley, London, Penguin, 1984, pp. 44-5; cf. 'Genealogy of Ethics', pp. 240-1.

90 'Technologies of the Self', pp. 23-30; 'The ethic of care for the self as a practice of freedom', p. 13. Foucault is careful not to read back into the Greeks any kind of modern individualism, or theory of the subject, indeed his recognition of the fact that they don't have any theory of the subject is part of the reason he is so interested in their 'arts of existence': 'no Greek thinker ever found a definition of the subject and never searched for one...(but this) does not mean that the Greeks did not strive to define the conditions in which an experience would take place - an experience not of the subject but of the individual, to the extent that the individual wants to constitute itself as its own master'. LDK, p. 253.

91 'The ethic of care for the self as a practice of freedom', pp. 6-8, 13.

92 'Genealogy of Ethics', p. 252.

changed within antiquity, then in Christianity, and finally its transformation with the advent of the human sciences in the eighteenth and nineteenth centuries. The transformation lies in the *mode d'assujettissement*, whereby in Christianity, rules for sexual behaviour (for example) are justified through religious concepts such as purity or faithfulness, and quasi-juridical forms such as certain casuistic practices. With the Enlightenment comes the decline of the religious framework for these rules (in part), and the rise of a medical and scientific framework which operates alongside and sometimes in tension with a (now) free-standing juridical framework.⁹³ What interests Foucault is the idea of a form of life that constructed an ethics (understood in the sense described above) independent of some universal code or revealed law, a process without formal and general interdictions imposed universally, but instead the means for the development (by a small privileged minority) of an 'aesthetics of existence'. It is the way in which it is problematized in thought (and less the real workings of Greek society) that Foucault concentrates on; the relationship for a free man between the exercise of his freedom, the forms of his power, and his access to truth.

What is Foucault getting at? Is he proposing that the Greeks offer some kind of model of alternative politics? The short answer is no, since Foucault claimed he was not in the business of providing ready-made alternatives from bygone eras: 'you can't find the solution of a problem in the solution of another problem raised at another moment by other people'.⁹⁴ But this is not to say that nothing turning to the Greeks is a purely esoteric exercise, and this takes us back to our remarks on Foucault's idea of critique. Foucault's goal here is to make

93 On changes within antiquity see Foucault 1984 (HoS2) especially at p. 253; and HoS3; 'Technologies of the Self', especially pp. 30-1; and the crisp summary in 'On the Genealogy of Ethics', pp. 241-3.

94 'On the Genealogy of Ethics', p. 231; cf. 'The ethic of care...', p. 14-15: 'Nothing is more foreign to me than the idea that philosophy strayed at a certain moment of time, and that it has forgotten something and that somewhere in her history there exists a principle, a basis that must be rediscovered'. On Foucault's general attitude towards the Greeks see the amusing dialogue in his last interview in LDK, p. 244.

us think again about our own practices, and in particular those in relation to how we understand ourselves as subjects: 'in the political thought of the nineteenth century [and even in] Rousseau and Hobbes...the political subject has been thought essentially as subject to law, either in naturalist terms or in terms of positive law...it seems to me that the question of an ethical subject does not have much of a place in contemporary political thought'.⁹⁵ Thus in his essay on the Enlightenment, Foucault floats the conception of Baudelaire's 'dandy', an 'ascetic elaboration of the self', someone who makes his very existence a work of art. The connection between this and his discussion of the Greek 'arts of living' seems obvious, but it should not be taken too far.

From our account of Foucault's conception of the Enlightenment ethos (the critique of the historical forms of our relations to things, to others, and to ourselves), and from our discussion of his conception of the relations between power, knowledge, and normalization, two general points can be seen to emerge. Firstly, the kind of 'ethics' Foucault discovers, especially in Volume 2 of *The History of Sexuality*, doesn't seem to him to be an attempt to 'normalize' the population, to prescribe a pattern of behaviour for everybody, since its principal aim was an intensely personal and aesthetic one. But as Foucault always reminds us, it is circumscribed in this way mainly because it is a personal choice for a small elite, dependent on a 'very harsh system of inequalities and constraints (particularly in connection with women and slaves)'.⁹⁶ What interests Foucault is that, given the decline of religion (or whatever) as a foundation for ethics, 'contemporary liberation movements share a similar problem of sorts in that they 'suffer' from the lack of an accepted code or principle upon which to base any 'new ethics', except one founded on a 'so-called scientific knowledge of what the self is, what desire is, and what [the]

95 'Ethic of care..', p. 14.

96 'On the Genealogy of Ethics', p. 230; *The Use of Pleasure* (HoS2), p. 253.

unconscious is'.⁹⁷ The point is to create a genealogy of these kinds of problems rather than their solution, not to dissolve the issue through the propagation of an 'aestheticized existence', but to develop the capacity to detach one's ethics from the 'depth-knowledges' and practices as best one can, to put 'historico-critical reflection' to the test of concrete practices.⁹⁸ This critical stance does not exclude the need to question the 'technology' of the aesthetics of existence any less than it does for the disciplinary technologies. This brings us to the second point, which relates to what Foucault calls the 'practices of liberty'. Foucault never denies that liberation *per se* does not exist, that colonial peoples haven't freed themselves of their colonizers for example, but he does deny that this act of liberation is sufficient itself to establish the practices of liberty, i.e the practices that will allow individuals to 'decide upon receivable and acceptable forms of existence or political society'.⁹⁹ The ethical problem of the definition of practices of freedom is more important than the affirmation that such-and such must be 'set free'. Foucault provides a summary of this which I can do no better than quote here.

I do not think that there is anything that is functionally - by its very nature - absolutely liberating. Liberty is a *practice*. So there may, in fact, always be a certain number of projects whose aim is to modify some constraints, to loosen, or even break them, but none of these projects can, simply by its nature, assure that people will have liberty automatically, that it will be established by the project itself. The liberty of men is never assured by the institutions and laws that are intended to guarantee them. This is why almost all of these laws and institutions are quite capable of being turned around. Not because they are ambiguous, but simply because "liberty" is what must be exercised.¹⁰⁰

Whenever Foucault talks about freedom or liberty, 'thought' and critique are never far behind - '[t]he point...is to transform critique conducted in the form of necessary limitation into a practical critique that takes the form of a possible transgression'.¹⁰¹ The history of 'thought' is different from a history of ideas, in that 'thought', rather than being what inhabits a certain conduct and what gives it meaning,

97 'On the Genealogy of Ethics', p. 231.

98 'What is Enlightenment?', p. 50.

99 'The ethic of care...', p. 3.

100 Foucault 1984 (*Reader*), p. 245.

101 'What is Enlightenment', p. 45.

is that which allows one to step back from this way of acting or reacting and to present it to oneself as an object of thought to be interrogated:

‘Thought is freedom in relation to what one does, the motion by which one detaches oneself from it, establishes it as an object, and reflects on it as a problem’.¹⁰²

I want to link this discussion of the practices of liberty and critique with Foucault’s conception of resistance, which I examined above. Remember that for Foucault wherever there is power there is liberty, and thus the possibility of resistance. The point is not to imagine a society without relations of power, since no society is without the means for individuals to try and conduct the behaviour of others, but to ‘give one’s self the rules of law, the techniques of management, and also the ethics, the *ethos*, the practices of self, which would allow these games of power to be played with a minimum of domination’.¹⁰³ Here practices of self are linked explicitly with a strategy of liberation, or at least with a process which ‘minimizes’ domination. The problem, as Foucault sees it, is to know how to avoid the effects of domination (within these practices).¹⁰⁴ Foucault is undoubtedly making an evaluative judgement here between ‘states of domination’ and states of minimal domination, or ‘strategic games of liberties’, the latter being those engaged in by individuals who have the capacities (the practices of self) inherent in the ethos of critique, which together we might call the ‘practices of liberty’. This is further suggested by a (now) infamous passage in which Foucault talks about ‘the plebs’, that something in the social body which (‘in some sense’) escapes relations of power, an ‘inverse energy’ which is in ‘bodies, in souls, in individuals, in the proletariat, in the bourgeoisie’. The point of view of the plebs is not from outside of power but at its ‘underside’ and limits, and thus is the starting point for understanding the functioning and development of

¹⁰² Foucault 1984 (*Reader*) p. 388.

¹⁰³ ‘The ethic of care...’, p. 18.

¹⁰⁴ *Ibid*, p., 18.

the apparatuses of power.¹⁰⁵ The function of philosophy, then, is precisely 'the challenging of *all* phenomena of domination at whatever level or under whatever form they present themselves'.¹⁰⁶ The valorization seems to lie in the relation between practices of liberty and the relation to self, or human agency, in the broadest sense of the term; it is this relation which is valuable and important and must be actualized against those states of domination which seek to deny it. The point is precisely to question any hypothesis that suggests freedom is to be found in the loosening of certain 'repressive locks' in order to reveal some essential human nature otherwise concealed or imprisoned. In short, Foucault problematizes the claim that in liberating oneself the ethical problem is solved; 'Liberation opens up new relationships of power, which have to be controlled by practices of liberty'. The key question always remains - How can one practice freedom?

Some critics have argued that when Foucault talks about these 'plebs' or practices of liberty he has 'smuggled back in' normative notions of liberal humanism, such as autonomy, reciprocity, dignity, and human rights, and that he is forced to, given that, it is the only way he can answer the question, 'Why resist?'¹⁰⁷ On one level this claim makes sense if you insist that resistance and liberty are only comprehensible in relation to foundational claims about their worth, and/or if you believe that Foucault generally obliterates the possibility of any form of

105 Foucault 1980, p. 138. Cf. Peter Dews, 'The Nouvelle Philosophie and Foucault', in M. Gane ed. *Towards a Critique of Foucault*, London, Routledge, 1986, who accuses Foucault of coddling up to the new Right and committing all the typical sins of the 'modish left' (that is, questioning the veracity of either traditional Marxism or Frankfurt School modifications).

106 'The ethic of care...', p. 20 (my emphasis).

107 This is the general thrust of Habermas' complaints. See his *The Philosophical Discourse of Modernity: Twelve Lectures*, transl. Frederick G. Lawrence, Cambridge, Polity Press, 1987, pp. 266-293. But more specifically, see Nancy Fraser, 'Foucault's Body-Language: A Post-Humanist Political Rhetoric?', *Salmagundi*, 61, 1983, p. 59; cf. 'Foucault on Modern Power: Empirical Insights and Normative Confusions', *Praxis International*, 1 1981, p. 283. I am indebted here to the excellent discussion in Gutting 1989, pp. 281-3. All of these issues are lucidly discussed in Richard Bernstein's superb article, 'Foucault: Critique as a Philosophical Ethos', in *Philosophical Interventions in the Unfinished Project of Enlightenment*, ed. Axel Honneth et. al., Cambridge Mass., MIT Press, 1992, 280-310 (though we come to different conclusions).

human agency. I have rejected this latter claim and will say no more about it here. The point about norms, however, is an important one, and brings out the crux of many of the issues we have been examining up to now. It seems undeniable that Foucault values the practices of liberty, in the sense that it is a preferred state of affairs in relation to practices of domination, but at the same time he seems to deny any grounds for saying so. But Foucault sees no need to provide any kind of philosophical foundation for the worth of liberty because he grounds it entirely in the concrete experiences of domination. In other words, we distinguish between domination and practices of liberty in our engagement in specific practices and 'apparatuses', whether it be prisons, asylums, or hospitals. The risks of bad judgements formed from direct experience are inescapable, but so they are also in applying wide ranging philosophic theories, which Foucault thinks are just as dangerous (if not more so), especially in the form of proposals for 'the new man', or wholesale, systematic political change. No *a priori* theory can promise us freedom, we achieve it only in relation to specific practices and struggles.

The problem, you see, is one for the subject who acts - the subject of action through which the real is transformed. If prisons and punitive mechanisms are transformed, it won't be because a plan of reform has found its way into the heads of social workers; it will be when those who have to do with penal reality, all those people, have come into collision with each other and with themselves, run into dead-ends, problems and impossibilities, been through conflicts and confrontations; when critique has been played out in the real, not when reformers have realized their ideas.¹⁰⁸

Hence the narrow range of claims that Foucault makes, and his constant refrain concerning the importance of 'partial transformations' and 'local struggles'. Foucault makes normative claims, but they are grounded in practices rather than philosophical principles; philosophy's role is to show the limits of its own claims. The role of the intellectual is not to shape the political will of others, since that formation is the duty of the citizens themselves (which includes intellectuals too), but rather to 'disturb people's mental habits...to

108 'Questions of Method', (an interview) in *The Foucault Effect: Studies in Governmentality*, Harvester Wheatsheaf, 1991, pp. 84-5.

dissipate what is familiar and accepted' through analyses carried out in his or her own field.¹⁰⁹ Thus liberty is a normative principle for Foucault, but only in the sense that it is a practice, never guaranteed by any set of institutions or principles; 'the guarantee of freedom is freedom'. In a way, Foucault is an anti-foundationalist autonomy theorist; agency is manifested in the practices of liberty, an ethos of critique which interrogates the 'discourse of truth' and the concrete practices within which it is embedded. But it is important to remember that Foucault is not propagating a political theory *per se*, and that he has only focused on very specific instances of relations of power, namely relations of discipline and subjectivation: 'these analyses can in no way, to my mind, be equated with a general analytics of every possible power relation'.¹¹⁰

6.5 Liberal discipline

Ultimately, I think Foucault is just wrong when he generalizes his particular studies about the normalizing technologies of discipline into a commentary on the nature of the juridical liberties *as such*, since they are a necessary part of any attempt to develop the capacities and autonomy of individuals in modern society. However, the questions he poses remain interesting. What is the liberal self, or the liberal mode *d'assujettissement*? What is the nature of liberal government, that is to say, what is the relationship between its juridical assumptions concerning the relation between state and civil society, and the 'extra-juridical' effects of its mode of government? In other words, to what extent are liberal regimes dependent on their own processes of discipline, or the effects of what Foucault (and Locke) called their 'art of government'? These are precisely the questions I addressed when I examined Lockean political theory in chapters 4-5, and will attempt to do with Rawlsian and post-Rawlsian political theory in chapter seven.

¹⁰⁹ LDK, p. 265.

¹¹⁰ Foucault 1984 (*Reader*), p. 380.

A striking, if little noticed, incongruity emerges in reading Foucault on the foundations of liberal political theory; it is his persistent return to the language of rights and his obvious affinity with at least the problematics of liberalism. Foucault engaged in a serious way with liberal theory in the course of a series of (mainly) unpublished lectures in the late 1970's, interestingly at a time when he seems to have been beginning his 'ethical' studies of the different constitutive practices of self, especially the 'practices of liberty'. But how does this compare with his (apparently) sweeping condemnation of the constitutional regimes and juridical liberties of the post-revolutionary era? These statements are even more puzzling given that Foucault constantly backs away from making just such totalizing claims (*viz* the last quote in 6.4). It appears that he was attempting to begin an articulation of a different kind of rights claim, one that was anti-disciplinarian but not sovereign-based.¹¹¹ If discipline was a form of power which penetrated beyond the abstract, autonomous, and responsible, juridical subject presupposed by the traditional conception of law (the formality of which established its equivalence to other selves and provided the scope for laws, i.e. that they must respect this formal essence), then any new form of right would have to be based on the recognition of the workings of these new power relations. Resistance would be articulated in relation to this 'real struggle', one more to do with 'life' (or what we might call the experience of the embedded self) than law, in the sense that 'life as a political object was...taken at face value and turned back against the system that was bent on controlling it'. Here is the role for the 'practices of liberty', which though often spoken of in terms of rights are meant to appeal against 'all these new procedures of power', to 'rediscover what one is and all that one can be'.¹¹² Hence another reason for detaching the self from any necessary relation with a universal humanism, which presents one form of ethics as a

¹¹¹ Foucault 1980, p. 108.

¹¹² Foucault 1976 (HoS1), p. 145.

‘universal model for any kind of freedom’. Foucault thinks there are ‘more secrets, more possible freedoms...more possible inventions in our future’ than can be imagined in the traditional accounts of the humanisms of the Left, Right, or Center: ‘This does not mean that we have to get rid of what we call human rights or freedom, but that we can’t say that freedom or human rights has to be limited at certain frontiers’.¹¹³ This is part of his conception of the ‘truth-telling’ or free speech (*parrhesia*) of the governed, that since we are all governed we must question those who govern us in the name of the knowledge and experience we have as citizens. In a remarkable passage Foucault even claims that there is an ‘international citizenry’ whose duty it is to ‘rise up against every abuse of power, no matter who the author, no matter who the victims’, indeed there is an ‘absolute right’ (*un droit absolu*) to do so: ‘The will of individuals must be inscribed in a reality that the governments have wanted to monopolize. This monopoly must be wrested from them bit by bit, each and every day’.¹¹⁴ But this ‘absolute right’ cannot be taken to mean that the function of ‘truth-telling’ takes the form of a Law (i.e. in terms of an abstract popular sovereignty), or residing by ‘right’ (by nature) in the ‘spontaneous interplay of communication’ (i.e. a Habermasian ideal speech situation), but rather is ‘an endless labor’.¹¹⁵ Foucault’s use of rights talk (especially in the communique’s and petitions he wrote on behalf of various political causes) is baffling unless we take it in the context I have sketched here, and even then it is often misleading.

But what of his thematic affinity with liberalism? His interest in liberal theory was part of a more general interest in the ‘macrophysics

113 Technologies of the self, p. 15. For other examples of his rights talk (other than those mentioned above), see Eribon 1989, p. 290, 299; Foucault 1984 (*Reader*), pp. 381-2; LDK, p. 329.

114 Eribon 1989, p. 279 (translation modified).; see also p. 297 on the development of a ‘logic of the left’ which he thought might change (for the better) the relationship between the ruled and the rulers: ‘[w]orking with government does not imply either subjection or total acceptance. One can simultaneously work and stubbornly resist’. Not suprisingly Foucault became rapidly disillusioned that this in fact could take place. Cf. Thomas Flynn, ‘Foucault as parrhesiast: his last course at the College de France’, in Bernauer (ed.)1988 , pp. 102-118.

115 LDK, p. 267.

of power', the study of the exercise of power at the scale of whole societies or populations, to which he had been turning increasingly in the late 1970's. The general rubric under which he put these studies was that of 'governmental rationality', or 'governmentality'. We have ourselves examined something similar in chapters 4 and 5 with regard to the development of a proto-liberal governmentality in the early modern social contract theory of Locke, natural law jurists such as Pufendorf, as well as in chapters 1-3 with regard to republican political argument. Foucault follows a similar but much broader analysis, with some different emphases which I shall note below. The crucial concept is, as we have seen, the 'art of government'. This is a kind of 'biopolitics' whereby the population, as a necessary component of the success and health of the state, becomes an explicit object of the practices of government. These 'techniques of government' rest between the strategic relationships of power (the perpetual tussle between powers and liberties) and states of domination. The analysis of these techniques is necessary because in is through them that states of domination are often established and maintain themselves. What intrigued Foucault was that liberalism problematized the very notion of government, whilst at the same time developing its own distinctive form of governmentality and the accompanying relation of self to self, i.e. its own form of liberal conduct.

In his lectures between 1977-80, Foucault spent some time exploring the theories of German and American neo-liberalism, in addition to beginning a genealogical study of early modern 'arts of government'.¹¹⁶

¹¹⁶ The best introduction to these lectures is now Burchell et al. 1991, which includes the seminal Foucault lecture 'Governmentality', and excellent accompanying pieces, especially those by Gordon (his 'Governmental Rationality: an introduction', pp. 1-51 is essential reading), Pasquino, and Burchell. Summaries of the lectures can be found in Michel Foucault: *Resume des cours*, Conference essais de lecons de College de France, Julliard, 1989 (or from the *Annuaire du College de France*, 1978-79, 79 annee). Foucault rehearsed some of the same themes on governmental rationality in 'Omnes et Singulatim: Towards a Critique of Political Reason', *The Tanner Lectures on Human Values*, 1981, vol 2, Salt Lake City, University of Utah Press, Cambridge University Press, pp. 224-54; cf. another version of this lecture in Luther H. Martin et. al., 'The Political Technology of Individuals', pp. 145-162. The relevant notion of biopower is discussed in *History of Sexuality 1*, pp. 140-5; there is also some discussion of biopower and governmentality in 'The Subject and Power',

I shall not rehearse the details of these discussions here, but shall instead concentrate on laying out the general contours of his presentation. According to Foucault (and others), the development of a *raison d'état* and science of police in the early modern period constituted the activity of government as an 'art' with its own distinctive form of rationality, including (among other things) the twin objectives of secular prosperity and security. Developing in unique ways from this was liberalism, or at least the tendencies and innovations which would ultimately culminate in the liberalism of the nineteenth and twentieth centuries, which Foucault saw as not simply a set of political or economic theories but as a style of thinking concerned with a specific 'art of governing'. What distinguished it from earlier 'police states' was its apparent distance from the previously isomorphic relationship between 'police science' and state action. Thus liberalism proposed limitations and restraints as a result of its stance towards 'state reason' which displayed the bounds of its power and determined what government could do, and what it must try not to do if it was to accomplish its purposes.

Le libéralisme est à analyser alors comme principe et méthode de rationalisation de l'exercice du gouvernement - rationalisation qui obéit, et c'est là sa spécificité, à la règle interne de l'économie maximale. Alors que toute rationalisation de l'exercice du gouvernement vise à maximaliser ses effets en (en?) diminuant, le plus possible, le coût (entendu au sens politique non moins qu'économique), la rationalisation libérale part du postulat que le gouvernement (il s'agit là, bien sûr, non pas de l'institution 'gouvernement', mais de l'activité qui consiste à régir la conduite des hommes dans un cadre et avec des instruments étatiques) ne saurait être, à lui-même, sa propre fin.¹¹⁷

pp. 217-224. The initial lectures of the series have been released in an audio cassette format by Seuil, and the complete lectures are available on tape at the Foucault Archive in the Bibliothèque du Saulchoir in Paris. See also Colin Gordon, 'Question, ethos, event: Foucault on Kant and Enlightenment', *Economy and Society*, 13,1, 71-87; 'The Soul of the Citizen: Max Weber and Michel Foucault on Rationality and Government', in *Max Weber: Rationality and Modernity*, ed. S. Whimster, S. Lash, London, Allen Unwin, 293-316; Barry Hindess, 'Liberalism, Socialism, Democracy: variations on a governmental theme', *Economy and Society*, forthcoming, 1993; Nikolas Rose and Peter Miller, 'Political power beyond the state: problematics of government', *British Journal of Political Science*, 43, 2, 1992, p. 173-205.; Malcolm Dean's (excellent), *The Constitution of Poverty: Towards a Genealogy of Liberal Governance*, London, Routledge, 1991; and the very interesting comments made towards the end of Terry K. Aladjem, 'The Philosopher's Prism: Foucault, Feminism, and Critique', *Political Theory*, 19, 2, 1991, 277-291.

117 Foucault, *Annuaire* 1978-79 (79), pp. 14-15. Cf. Gordon 1991, pp. 14-15.

What Foucault identifies as important is the introduction of 'economy' into the management of the state. Economy is understood here in two ways: firstly, in its sixteenth century sense as being the correct manner of managing individuals, goods, and wealth in a way in which a father would with regard to his household (i.e. *oeconomy*); and, secondly, as it came to be understood in the eighteenth century, that is, as being a 'level of reality' or 'field of intervention' pertaining to *commerce*.¹¹⁸ In both instances, it is implied that to govern a state is to apply (o)economy, to employ a form of surveillance and management to the 'things' of the *civitas*, including its inhabitants. What changes, at least according to Foucault, is that by the eighteenth century this is less a matter of directly applied juridical power, or cameralist/mercantilist intervention, than it is of encouraging 'the right disposition of things' through the framing of 'mechanisms of security'.¹¹⁹ A necessary part of this development is the object of government shifting from the classical family model at the base of 'oeconomy' to the more diverse and multifarious notion of 'population', which was not reducible to the dimensions of a family, and which had its own set of regularities, processes, and general phenomena, and even a new science for interpreting itself - statistics.¹²⁰ The art of government thus increasingly addresses issues of 'security' rather than sovereignty, that is to say, framing the identified 'natural processes' of population and political economy through mechanisms of security which minimize its own presence whilst ensuring its real effectiveness. A key moment in this development is the emergence of an understanding of man as a 'subject of interest' who possesses a set of preferences and choices which are both irreducible and non-transferable (Foucault was anticipating, in very general ways, key aspects of the work of Dr. Tuck here). Hence Foucault's interest in the theories of the great Scottish

118 Foucault 'Governmentality' 1991, p. 92-3.

119 Ibid, p. 93. Cf. Gordon 1991, n.36.

120 Ian Hacking, *The Taming of Chance*, Cambridge University Press, 1990.

political economists and moral philosophers, whom he saw as constructing a complex domain of 'governmentality' within which economic and juridical subjectivity were not reducible to each other, but rather situated as partial and relative aspects of a larger element - i.e. 'civil society'. Hence also the conception of 'economic government'; government informed by the doctrines of political economy, but also government economizing on its own costs, accomplishing more by doing less. Foucault saw this as disqualifying the Lockean conception of political jurisprudence, embodied as it was in the inaugural acts of delegation and then renunciation in the social contract whereupon the individual was constituted as a political and juridical subject. As we saw, this juridical knowledge and power for Foucault was rigidly symmetrical between sovereign and subject, and essentially repressive, concerned as it was with the strict demarcation of the legal and the illegal. This in turn was set against the 'new' disciplinary power, creating a complex relation, but one which was essentially heterogeneous. It is interesting that in his lectures on governmentality the rigidity of this distinction (which I have questioned above in chapter 5) is lessened somewhat and the use of law as an aspect of discipline itself, rather than simply as a cloak for its 'actual' effects, enters the picture. But it still seemed to be the case for Foucault that this development took place well beyond seventeenth century formulations of social contract theory and the juridical mode of government. He identified the end of the governmental rationality of these natural law theories ('the jurists') pretty narrowly, at least as far as we can tell from the lectures. Foucault argued that the 'real content' of what the jurists and theologians called the common good, '[i]n every case...(was)...nothing other than submission to sovereignty', i.e. submission to law; he gave an example from the work of Samuel Pufendorf.¹²¹ The example gives something away though, and the choice of Pufendorf explains the rigidity of Foucault's account of the

¹²¹ Foucault 'Governmentality' 1991, pp. 94-5.

natural law understanding of sovereignty, since Pufendorf, though undoubtedly one of the architects of what we now call the 'juridical mode of political power', was also an absolutist, which does not exactly exhaust the horizons of early modern natural rights theory. Given a non-absolutist account that presupposes a different kind of individual and collective political agency - Locke's for example - the issue of the common good becomes more complex, precisely because it appears that the arts of government are in part directed at working on the very abilities of men ('their humours, interests, and capacities') fundamental to the political and ethical judgement of citizens in civil society, the capacities they must use, in part, to judge the legitimacy of the very art itself. Foucault identified the 'new finality' of government in the eighteenth century, as the 'disposing of things' so as not to lead to the form of the common good 'as the jurist's texts would have said', but to an end which was 'convenient' for each of the things to be governed.¹²² However, by avoiding discussing other early modern arts of government (which I have attempted to fill in here and above in previous chapters), Foucault missed important aspects of the development of the governmental rationality of social contract theory. Hence my desire to take a step back from Foucault's claims and return to a consideration of this tradition, not least for the obvious reason that contemporary liberal political theory, especially in the form provided by its most celebrated and sophisticated exponent, John Rawls, is still deeply enmeshed within its matrices (though carried on, of course, at a higher level of abstraction than in the original theories).

However, before doing so, I want to complete our sketch of Foucault's argument. The key moment in the history of liberal thought for Foucault is when it breaks with the conventional *raison d'état* which, since the end of the sixteenth century, 'avait chercher dans l'existence et le renforcement de l'Etat la fin susceptible de justifier une gouvernementalité croissante et d'en régler le

¹²² Ibid p. 95.

developpement'. Thus liberalism, according to Foucault, is structured around the question of 'on gouverne toujours trop' and that 'la gouvernementalité ne doit pas s'exercer sans une "critique", autrement plus radicale qu'une épreuve d'optimisation':¹²³

Plutôt donc qu'une doctrine plus ou moins cohérente, plutôt qu'une politique poursuivant un certain nombre de buts plus ou moins définis, je serais tenté de voir, dans le libéralisme, une forme de réflexion critique sur la pratique gouvernementale; cette critique peut venir de l'intérieur ou de l'extérieur; elle peut s'appuyer sur telle théorie économique, ou se référer à tel système juridique sans lien nécessaire et univoque. La question du libéralisme, entendue comme question du "trop gouverner" a été une des dimensions constantes de ce phénomène récent en Europe et apparu, semble-t-il d'abord en Angleterre...¹²⁴

Foucault tried to isolate the governmental rationalities ('ces types de rationalité qui sont mis en oeuvre dans les procedes par lesquels on dirige, à travers une administration étatique, la conduite des hommes') of two forms of contemporary liberalism which he saw as direct heirs to this tradition: the West German *Ordoliberalen* (as they were later known) of the years 1948-1962; and the American 'neo-liberals' of the 'Chicago School' (Gary Becker, Milton Friedman, etc.) What Foucault noted in the former was a rigorous 'anti-naturalism' and constructivism in connection with the development and functioning of a market economy, which was assumed to be maintainable only by virtue of certain activist policies (social security arrangements, healthcare, public housing), i.e. a 'social market'. The cultural angst of mass market societies according to these German liberals was not related in any necessary way to the market *per se*, but was caused by the wrong policies, i.e. the consistent anti-liberal policies of successive modern German governments.¹²⁵ The American neo-liberal approach was altogether different in that it rejected any attempt to combine market forces with social policies which compensated for any market failures ('market failure' is simply an oxymoron in this context), and instead sought to extend their account of 'free market rationality' to all sorts of (strictly speaking) non-economic areas, such

¹²³ Foucault, *Annuaire*, p. 368.

¹²⁴ Ibid, p. 370.

¹²⁵ Ibid, pp. 371-2. Cf. Gordon 1986, pp. 80-1; 1987, pp. 314-5.

as crime and punishment, education, and healthcare.¹²⁶

One thing liberal governmental rationality does is to complicate the relation between civil society and the state. Since law, even for Locke, was not rigidly set apart from the emerging 'disciplinary practices' and exerted its own kind of 'normalizing' power, civil society (the rule of law) cannot be seen as something set over the state, nor something that always repels or contests the will of government, but is itself almost state-like. Civil society is the enabling structure established by members of a community to solve the problems of a growing population, increased scarcity, and the inevitable disputes which arise as a result. Government is the ordering activity of civil society which addresses the problems for which it was established in the first place, and thus it is a mistake to pose the question in terms of the state versus civil society or vice versa. The issue is one concerning the nature of this ordering activity, which in the liberal tradition takes its most fundamental shape in the rule of law, the manifestations of which (as we have seen), can range from the interventionism of cameralist *polizei* to the framing of 'natural processes', and ultimately whether or not it is capable of providing the grounds for a sustainable community, or at least some kind of partnership between citizens of complex commercial societies.¹²⁷

¹²⁶ Foucault, *Annuaire*, p. 372.

¹²⁷ Foucault describes civil society as both an object and an end of government; it is by reference to it that the state's role and functions are defined and the maintenance and existence of which it must secure. It is a 'transactional reality', the contours of which are variable and open to modification, within which techniques of government operate in light of the general problematic of 'security'. See Foucault's lecture April 4, 1979; Burchell 1991, pp. 140-1. See also Foucault's interview with union representatives on issues concerning social security, given at the height of the Solidarity crisis in Poland in 1981 (a cause Foucault was deeply committed to and engaged with, see Eribon 1989, chp 20 *passim*) and just after Mitterrand's ascension to power. He argued that the Polish example showed that one misunderstands the complexity and multiplicity of the confrontations if one merely describes it as a case of civil society versus the state: 'the notion of an opposition between civil society and state was formulated in a given context with a particular intention...It was a quasi-polemical concept, opposed to the administrative power of the states at the time (in the eighteenth century) in order to bring victory to a certain liberalism.' Foucault did not like the way the schema gave a pejorative connotation to the notion of the state whilst idealizing society as a 'good, living, warm, whole'; 'To believe society capable, by mere internal regulation, of solving the problems that it is presented with is to have a very optimistic notion of society'. LDK, pp. 167-8.

Now one of the values of Foucault's account is to point out how the story of liberalism is not just the gradual optimization of a sphere of individual freedom and rights preserved against nasty and arbitrary state intervention, but is itself a particular configuration of discursive, non-discursive and governmental practices emerging out of a particular historical context. Though it might be true that there is a liberal *nomos* which 'tells us of some things we must do... but it does not tell us what it is wise or prudent or good for us to do, and it necessarily leaves open various realms of choice', this cannot be confused with an abjuration of interest in government, or a lack of concern with a set of particular relations between self and government and self and self.¹²⁸ Changing our relation to government involves changing our relation to ourselves, a process criss-crossed by a variety of practices and institutions which come together in any number of different 'governmentalities'. If we combine these studies of liberal conduct with some of Foucault's last works on an ethics of 'care for self', and especially his discussion of various 'practices of liberty', it is clear that Foucault was attempting to focus on the increasing politicization of aspects of personal identity so evident in late twentieth century political argument and practice. On the one hand, this has taken the form of a blatantly polemical exercise, as in the case of neo-liberal and conservative strategies of cutting government programs as a means of propagating particular forms of conduct, whether it be the call for us to become 'economic warriors' in an 'enterprise culture', or to take responsibility for ourselves and break with the 'dependency culture' of social security benefits.¹²⁹ On the other hand (and the two are not mutually exclusive), it is (or has been) evident in the increasing emphasis put on the value of personal

128 The *nomos* is Oakeshott's, warmed over by Nathan Tarcov (*Locke's Education for Liberty*, University of Chicago Press, 1984, p. 7).

129 See for example Lawrence Mead, *The New Poverty*, New York, Basic Books, 1992, pp. 2, 21- 2, 133-158.

autonomy in liberal political theory.¹³⁰

The assumption then has been, both in traditional liberal historiography and theory, that liberalism, though always intensely interested in political power as such, has usually only interpreted it in terms of its limitations or the prevention of its abuse (i.e. the supposedly traditional concerns of juridical social contract theories). In contemporary terms, this has perhaps manifested itself most visibly in the various approaches liberal theories have taken towards the 'fact of pluralism'; the epistemic abstinence of anti-perfectionist theories, and the trepidation with which theorists have addressed the issue of the moral personality (and thus also the ferocity of attacks on this 'liberal self' from its critics). Foucault's emphasis on the way the self comes to constitute itself as an object (its *mode d'assujettissement*) is another way of approaching the issues which surround the liberal emphasis on the value of personal autonomy. But it also suggests a possible way of explaining the nature of claims that have been increasingly made in contemporary politics on the grounds of questions of 'lifestyle' or, more broadly, around the question of the politics of recognition.¹³¹ Here recognition is seen to be an essential component of what it is to be human, and thus its absence or abuse (i.e. some form of misrecognition) is seen to cause real damage or distortion to one's identity. This 'damage' can take the form of society reflecting back to a particular individual or group a demeaning picture of themselves, as say a woman feels or senses in a patriarchal society, or a black person in a white society. This could cause either party to be subject - by others and by themselves - to a loss of self-esteem or dignity, and even to lose that part of themselves which their society

130 Cf. Foucault on social security reform in France: 'there [exists] a positive demand...for a security that opens the way to richer, more numerous, more diverse, and more flexible relations with oneself and with one's environment, while guaranteeing to each individual a real autonomy...Ought we not rather to be trying to think out a whole system of social coverage that takes into account this demand for autonomy, so that these effects of dependence will disappear almost entirely?'. LDK, pp. 161-2.

131 I am borrowing this term from Charles Taylor, *Multiculturalism and the "Politics of Recognition"*, Princeton University Press, (with Amy Gutman et al.) 1992.

finds contemptible or without worth, but without which they would feel incomplete or incoherent. There are (at least) two ways of making this kind of claim. Firstly, it could just be a matter of blatant injustice, by which I mean that the society in question is organized in a blatantly racist or patriarchal way, resulting in a distorted allocation of goods and resources in favour of a dominant class or group. Questions of racism and sexism do not vanish when these societies are re-organized around liberal principles of equality, but the institutional means and procedures are (supposed to be) put in place to address any grievances relating to them. Questions of recognition, then, rest mainly on a minimal sense in which everyone is owed recognition on the grounds of his or her equal worth as a human being. The second way of making this kind of claim has very little to do with questions of distribution, the acquisition of state power, or the extension of rights. Rather, the demands or complaints are oriented towards questioning the very basis upon which the main institutions and forms of political argument in society rest. Here the equal respect endorsed by some contemporary liberal theories through the distribution of an equal and identical basket of rights and immunities, misses or even stifles that which is really distinctive and of worth to individuals or a minority group. The force of this critique is especially sharp when it is claimed that in doing so the dominant principles mean nothing less than the suppression of 'particularity' in the name of the hegemonic culture for whom the said principles are easy to endorse. Groups or individuals might also feel that in societies where grievances must be expressed in terms of principles or procedures, complaints that do not fit into this form of political argument go unnoticed and unexpressed, let alone met. Here the questions and demands revolve around the dominant 'codes' which structure social and political arrangements as a whole, and insist on an awareness of alternative 'networks of sense' which should be 'saved' from the state and the considerations governing

public policy.¹³² The point here has to do with the context of differences available to the subject with which to fashion an identity from. It is essential for theories of justice to have not just their institutional framework within which to mediate competing claims according to their core principles, but to also have subjects who recognize themselves as agents of a particular kind, i.e. as subjects of a particular interpretive context within which they can be subjects of judgements that are just or fair.¹³³ For some, this means that a whole range of experience and desire - 'muted or subaltern voices' - and the possibilities for recognition and transformation they furnish, are absorbed and thus ignored by the larger theory. None of these claims necessarily undermine the entire basis of liberal theory, but, taken in their strongest form, they imply that liberalism is a 'pragmatic contradiction', a particularism masquerading as a universal.¹³⁴ I shall return to these issues below.

The limits of Foucault's studies for my purposes are clear: his account of contemporary liberalism (and its history) is one-sided and incomplete, and did not (perhaps could not) take into account the reemergence of contractarian theory inaugurated by Rawls in 1971. Also, in focusing exclusively on either states of domination in relation to disciplinary power, or the purely subjective site of 'practices of liberty', Foucault completely missed (or avoided) the possibility of any kind of intersubjective or consensual practices or disciplines of liberty. As a result he is not in a position to make the kind of sweeping generalization he makes in relation to the basis of the juridical liberties, at least in the quotes we noted above. But he did anticipate the surge of philosophic and historical interest in theories of the self (or what he called 'technologies of the self'), the rise of which, at least

132 Claus Offe, 'Competitive party democracy and the Keynesian welfare state', in Claus Offe, *Contradictions of the Welfare State*, ed. John Keane, London, Hutchinson, 1984, pp. 189-90. See also Taylor 1992.

133 See the interesting discussion in Anthony J. Cascardi, *The Subject of Modernity*, Cambridge, Cambridge University Press, 1992, especially p. 308.

134 The phrase is Taylor's (1992, p. 44).

in the context of contemporary political theory, is (I think) of no small importance. And perhaps most importantly, if we accept that it is a mistake to condemn him for not providing something he resolutely refused to provide, i.e. a systematic, normative, and prescriptive political theory for all seasons, the questions he asked remain important (or at least interesting) for a liberal political argument focused increasingly around the relation between autonomy and community. When he asks 'How can the growth of capabilities and autonomy be disconnected from the intensification of power relations?', he is not far from the concerns of contemporary liberal theory, nor is he far from a potential response to the overwhelming one-sidedness of his own account of the juridical liberties and the 'practice of liberty'. It is to that which we must now turn.

Chapter 7: Liberal Conduct

7.0 Introduction

I want to tie together what we have been discussing in the previous chapters with regard to Locke's 'art of government' and Foucault's reading of that tradition, with a consideration of these same questions in the context of contemporary liberal political argument. The reader may have noticed that my discussion of natural law and some aspects of Locke's political theory in chapters 4 and 5 falls into the second category of investigation so bluntly indicated in the title of the thesis, that is, liberalism. No doubt she or he might also have noticed that I carried out this initial discussion without clarifying exactly what I mean by 'liberalism'. The main reason why I have done this is because one cannot (strictly) speak of a set of concepts or ideas in the seventeenth and early eighteenth century as belonging to a doctrine that had yet to cohere in any consistent or meaningful fashion, and certainly not in the way we understand it today. Foucault makes this mistake in places and as a result, ends up with a very attenuated understanding of the range of natural law theories available in the context of the seventeenth century. The way we use the term, and the kinds of distinctions we make between 'classical liberalism' and 'modern liberalism', evolve from the nineteenth century and the emergence of specific political movements identified with the holding of 'liberal opinions', for example, favouring constitutional change, legal reform, civil and commercial liberty, and democracy. Thus if we turned back to the examination of Locke's political theory and looked for his 'liberal' theory, we might find it, but not without either severely contorting *his* doctrines, or ignoring huge swathes of argument not relevant to our concerns but nevertheless absolutely fundamental to his. All of this is probably clear, given the efforts by so many recent theorists and historians to destroy the 'mythology of prolepsis'.¹ It is

1 See Skinner in James Tully, *Meaning and Context: Quentin Skinner and his Critics*, Cambridge, Polity Press, 1988, p. 45). The point is to avoid whereby 'the action has to await the future to await its meaning.' Dunn 1969 is on the whole directed at destroying whatever plausibility this approach might have had for understanding Locke's work. Cf. Will

my intention here to provide a general account of liberalism, and more particularly contemporary variations on the same theme, and then to relate this to our discussion of the concepts of liberty and self which have gone before. This means pursuing the tension I identified in Locke between the 'natural' rights bearing self and the same self as a subject of 'constructive' practices. The 'pursuit is all', so to speak, because too often claims are made about a set of problems, or the nature of contemporary liberalism as a whole, on the back of a certain reading of a history of ideas without any real engagement - just a sort of 'airy allusion' - with the contemporary theories themselves.²

Having just said that I will provide a 'general account' of liberalism, let me immediately qualify this: I am not going to summarize each and every aspect, but rather indicate both the relation between it and the concerns of Locke which we have already examined, and the relevant developments in our contemporary understanding of these issues.

7.1 Natural foundations

What is the precise nature of the Lockean bequest to contemporary political theory and practice?³ This is a huge question, but, given the discussion above, we can trace the nature of the relationship with regard to the issues at hand. It is true, though, that any attempt at

Kymlicka who writes that 'I hope to show how my arguments are related to the political morality of modern liberals...not seventeenth-century liberalism'. (*Liberalism, Community and Culture*, Clarendon Press, Oxford, 1989, p. 10).

- 2 The 'airy' plaint is Jeremy Waldron's, 'Autonomy and Perfectionism in Raz's *Morality of Freedom*', *Southern California Law Review*, 62, p. 1100 n. 9. We must tread carefully though, since, of course, doing the history of ideas needs no justification on grounds other than its own, and barking demands for 'relevance' are for the most part, inappropriate. However, where historians themselves make claims about specific contemporary issues, especially in the case of liberal political theory, given the enormous growth and complexity of the subject it would seem right that they be asked to be more precise, or even, to elaborate. Contemporary theorists are equally guilty of making 'airy illusions' to history; see for example, Robert Nozick's use of Locke in *Anarchy, State, and Utopia*, Basil Blackwell, 1974, and on the left, Mark Tushnet's description of classical liberalism in his 'Following the Rules Laid Down: A Critique of Interpretivism and Neutral Principles', *Harvard Law Review*, 96, 1983.
- 3 One of the most interesting treatments of this question is John Dunn's, 'What is Living and What is Dead in the Political Theory of John Locke', in John Dunn, *Interpreting Political Responsibility: Essays 1981-89*, Cambridge, Polity Press, 1990, pp. 9-25; I am greatly indebted to it.

providing a basic account of the foundations of modern liberalism usually involves a Lockian component, including his account of liberty and natural rights, and his contractarianism in general. Furthermore, the intersubjective and intrapersonal tensions of Lockian subjects, the regulation of which we have examined in some detail, seem to be present as well in the concerns of their modern cousins. Here the questions are ones of capabilities, self-understandings, and the relation between individual and public goods, and the justification of social arrangements. Each of these points needs qualification, and to be taken in turn.

Let us turn first to questions of nature. There are two parts to Locke's argument I want to pick out here. First, remember the essential formulation of man's natural liberty and equality:

Men being...by Nature, all free, equal and independent, no one can be put out of this Estate, and subjected to the Political Power of another, without his own *Consent*. The only way whereby any one divests himself of his Natural Liberty, and puts on the bonds of Civil Society is by agreeing with other Men to joyn and unite into a Community, for their comfortable, safe, and peaceable living one amongst another, in a secure Enjoyment of their Properties, and a greater Security against any that are not of it. This any number of Men may do, because it injures not the Freedom of the rest; they are left as they were in the Liberty of the State of Nature. When any number of Men have so *consented to make one Community* or Government, they are thereby presently incorporated, and make *one Body Politick* ...(II. 95; also 4, 5, 57, 119)

This 'natural assumption' subsequently became one of the conventional ways of talking about rights, and as Barbeyrac noted, established one of the critical dividing lines between the ancient and the modern, since Aristotle, 'for whom such Numbers have so great a Veneration', was wholly ignorant of the 'just Ideas of the natural Equality of Mankind...one of the most evident Principles of the Law of Nature'.⁴ The second part relates to the extent of this natural equality.

Locke writes;

Though I have said above...*That all Men by Nature are equal*, I cannot be supposed to understand all sorts of *Equality*: *Age* or *Virtue* may give Men a just Precedency: *Excellency of Parts and Merit* may place others above the Common Level: *Birth* may subject some, and *Alliance* or *Benefits* others, to pay an Observance to those to whom Nature, Gratitude or other Respects may have made it due; and yet all this consists with the *Equality*, which all Men are in, in respect of Jurisdiction or Dominion, one over

4 Jean Barbeyrac, *An Historical and Critical Account of the Science of Morality*, preface to Samuel Pufendorf, *The Law of Nature and Nations*, transl. B. Kennet, London, 1749.

another, which was the Equality I there spoke of, as proper to the Business in hand, being that *equal Right* that every Man hath, to his *Natural Freedom*, without being subjected to the Will or Authority of any other Man. (II.54)

The key phrase here is a 'just precedency' of inequalities of wealth, esteem, or whatever, according to the variable distribution of (what we call) 'natural assets'; i.e. 'age', 'birth', 'excellency of parts', and 'virtue'.⁵

There are two aspects of the first part of these two claims which are relevant to modern liberal political theory, at least as I shall present it here: the idea of a subjectivity existing prior to social and political institutions; and the importance of a process for the justification and legitimation of social arrangements. By this I mean some shared basis for a structure of human cooperation within which the demands of individual and collective recognition are met, or if not, justified in such a way as to be at least intelligible if not (ultimately) acceptable to all.

Taking the first of these, remember the discussion of Locke's use of the state of nature. As a moral fiction and analytical tool, it was necessary in developing a perspective from which to judge the legal and moral boundaries of political relationships. One result of this construction is the translation of the interactions of natural men in the state of nature, living according to (and executing) the law of nature, into a theory of the rights and obligations of the citizen in civil society. The key assumption is that these obligations of civil society are taken on voluntarily through the consent of each (male) member to be subjected to the political power of another, who then govern in the name of the common good and as trustee of the natural powers entrusted in him (or them) by the people. The people retain the right, if they see fit, to exercise these powers themselves, erect a 'new form', or if keeping the conventional form, place it in new hands.⁶ Any rights flowing from civil society - i.e civil rights - flow from the foundation of individuals' natural rights and thus ultimately regulate

5 'Merit' is not a natural asset *per se*, since the context of the passage suggests Locke means it in the sense of desert, rather than any kind of, say, natural merit.

6 *Two Treatises*, II.243.

the actions of the appointed regulators (the government) themselves. The individualist premises of these 'natural facts' (notwithstanding their ultimate dependence on a certain relationship to the Deity) are important to note. The contractarian approach embodies the recognition of distinct individuals or particular selves and their liberty, which follows from a strong belief that the source of political authority lies in the consent of the people.⁷ Civil society, so the theory goes, does not create this sphere of autonomy, nor supposedly does government, rather it is enframed and regulated; that is, whatever social arrangements exist do because they have been, in some way, agreed to. The evaluative categories for judging a political system thus do not come wholly from within it, but from the outside, from a preexisting, prepolitical, (in part) individualist order of value.⁸ This account is not as straightforward as it sounds, but for now I have sought only to sketch the general relation between these early modern assumptions and their translation into being liberal foundations.

Perhaps suprisingly, the idea of there being natural rights existing prior to positive law or social insitutions has not vanished from contemporary liberal discourse. Bentham claimed that a right is simply 'the child of law' and natural right 'a son that never had a father', and yet he did little to dislodge the appeal of the concept of rights being justified somehow beyond the contingencies of human convention.⁹ However, over the centuries, the meaning and force of the 'naturalness' of rights has changed. Much of contemporary liberal political theory has concentrated on what follows from Locke's

7 As Waldron writes: 'there is something it is like to be me...To talk about my freedom on the liberal view, is to talk about the role I play in the determination of my actions, where 'I' is understood in the sense of what it is now like to be me; it is not to talk about the thought or decision-making of an entity cleansed of the "false consciousness" that characterizes my present experiences and desires' (*italics suppressed*), Jeremy Waldron, 'Theoretical Foundations of Liberalism', *The Philosophical Quarterly*, 37, 147, 1987, p. 132.

8 See Andrzej Rapaczynski's always interesting (though I disagree with a lot of it) *Nature and Politics: Liberalism in the Philosophies of Hobbes, Locke, and Rousseau*, Cornell University Press, 1987, pp. 7-8, 62, 118-119.

9 In Jeremy Waldron, 'Introduction', in Jeremy Waldron ed., *Theories of Rights*, Oxford University Press, 1984, p. 4. See in the same volume Margaret MacDonald, 'Natural Rights', pp. 21-40, especially pp. 21-23.

argument examined above, that is, the importance of the justification and legitimation of social arrangements and the extent of government action according to the fundamental rights of its citizens. In this context, for some, natural rights have become 'human' rights, synonymous in the sense that it is conceived as a moral entitlement which human beings possess in their natural capacity as humans (i.e. as part of a reference group subject to certain political principles).¹⁰ It is important to be clear about the work that the word 'natural' is doing here; unlike Locke's emphasis upon revelation as the basis for our subjection to the constraints of natural law, contemporary theorists look for their deep sources in fundamental values or principles. Beyond general assertions as contained in, say, a Declaration of the Universal Rights of Man, *specific* assertions of 'natural rights' or 'human rights' (what are sometimes called 'positive rights') are intelligible, but only in terms of being justified according to a specific claim about their worth. Expressed as 'rights', they are demands, and their justification must come in the form of some good reason for the desired state of affairs.¹¹ Combining both of these points, a very influential account of the fundamental intuition behind early modern arguments for natural rights was put forward by H.L.A. Hart in 1955. Hart argued that if there were any moral rights at all there had to be at least one 'natural right', that is, the 'equal right of all men to be free'; and being capable of choice, 'Men have this right *qua* men and not only if they are members of some society or stand in some special relationship to each other, nor is this right conferred by men's voluntary action'.¹² Thus Hart keeps to the terminology of the natural right tradition, but qualifies it by providing a justification for moral

10 See the helpful discussion of 'human rights' and 'rights' in David Miller et al., *The Blackwell Encyclopaedia of Political Thought*, Blackwell, 1987, pp. 222-225, 443-446. Cf. the discussion of human beings and 'natural persons', Stanley I. Benn, *A Theory of Freedom*, Cambridge, Cambridge University Press, 1988, pp. 94-102, 236-248.

11 Brian Barry, *Political Argument: A Reissue with a New Introduction*, Harvester Wheatsheaf, Great Britain, 1990 (1965), pp. liv-lvi, 149-151; also p. 83.

12 H.L.A. Hart, 'Are There any Natural Rights?', in Waldron ed. 1984, pp. 77-9, 83-88.

rights on the basis of a deep principle of freedom;¹³ rights are distinguished from other moral considerations in that they protect and enhance human freedom.

However, as we turn to more recent liberal accounts, the primacy of freedom as its central organizing principle is diffused amongst other considerations, and most importantly, the means to combine a concern for individual liberty with the good of community and social cooperation. Interestingly, this involves a subtle reformulation of the assumption of natural liberty to incorporate what the content of this right actually is, and the extent to which it is both 'natural' and in part constituted by one's embeddedness in the social world. Liberty remains a deep principle but is mixed with 'freedom-related' values of autonomy and human agency, states of affairs to be achieved rather than taken for granted, with rights as preconditions for the possibility of valuable moral deliberation and action. We arrive at an important point of transformation here between Locke's early modern assumptions and those of the modern liberal. Remember that above I noted how Locke calls any differentiation in equality between persons to do with their natural talents (beyond the assumption of their equal right of natural liberty) a 'just precedency'; most modern liberals, following Rawls (as we shall see), deny any such thing. The reasons for doing so, notwithstanding the variations in the details of particular arguments, have to do with the strongly egalitarian bent of normative liberal argument. Liberals assume that people will practice and pursue a wide variety of lifestyles often opposing and even offensive to each other, and therefore, if any set of social arrangements are to be justifiable and acceptable to as many people as possible, they must appeal to shared underlying interests and beliefs. Government must be seen to treat their citizens with equal concern and respect, whatever their particular talents, in justifying basic social and political

13 Not to be confused with an absolute or imprescriptible right to liberty; Ibid, p. 78.

arrangements.¹⁴ We ignore what flows from these natural talents (i.e. the ability to command more resources because one is more powerful as a result of these 'natural talents'), because they are the product of a natural 'lottery', and thus cannot be the basis for distinguishing between people on ethical grounds. Liberals also assume that there is a common form of ethical commitment. Everyone, whatever their particular commitments, pursues some kind of conception of the good life, and thus while people will not necessarily share one another's ideals, 'they can at least abstract from their experience a sense of what it is like to be committed to an ideal of the good life; they can recognize this in others and they can focus on it as something to which political justification ought to be addressed'.¹⁵ Thus we have a natural interest (or what Rawls calls a 'higher-order' interest; see below) in pursuing as good a life as possible, 'a life that has all the things that a good life should have', as well as an interest in developing and training the capacities which can further this interest.¹⁶ The issue of moral capacities, their development, and their relation to liberal political theory is an important one, and I shall return to it below.

Having considered a number of issues with regard to liberalism's basic assumptions concerning 'natural' equality and liberty, and the need for social arrangements to be justified to individuals who have a natural interest in pursuing a conception of the good, it seems fair to say that liberalism is, in large part, a theory which is concerned with determining the scope of morally legitimate political action. And, insofar that it is, a social order is legitimate if it is based on the consent

14 This is a crucial difference between Rawls' theory and one like Locke's, for example, as we shall see. Though Rawls' 'original position' corresponds to the idea of a state of nature, it is different in that it seeks to screen out any natural advantages which might translate into superior (i.e. unequal) bargaining advantage. See John Rawls, *A Theory of Justice*, Cambridge Mass., Harvard University Press, 1971, pp. 11-12.

15 Waldron 1987, p. 145 (italics suppressed). Ronald Dworkin, 'Liberalism', in *A Matter of Principle*, Harvard University Press, London, 1985, p. 191-2. John Rawls, *A Theory of Justice*, Harvard University Press, Cambridge Mass., 1971, pp. 395-452. See also Will Kymlicka, *Contemporary Political Philosophy: An Introduction*, Clarendon Press, Oxford, 1990, p. 63-4.

16 Ronald Dworkin, 'In Defence of Equality', *Social Philosophy and Policy*, 1, 1983, p. 26. See also the helpful discussion in Will Kymlicka, 1989, pp. 11-12.

of those who live under it, where 'consent' is broadly construed in the context of a wider theory. This brings us back to the second of the major Lockian themes relevant to contemporary theorists, his contractarianism. Locke's account of the role of consent in his theory is notoriously opaque, but the analytical value remains relevant in the contemporary context as an expression (however vaguely) of the core value of contractarianism.¹⁷ Contemporary theorists have avoided the Humean charge of incoherence over the origins of any social contract by extracting only general formal notions, the main one being that a contract is a device or model for thinking about the justification of fundamental political principles, where people are assumed to be morally equal. Thus any division of political labour, and the social arrangements which flow from it, are justified in terms which respect people's fundamental moral equality. This is far removed from any account of actual or hypothetical consent, for, as Rawls says '[n]o society can...be a scheme of cooperation which men enter voluntarily in a literal sense'. The terms of cooperation are represented as the object of agreement: 'a society satisfying the principles of justice as fairness comes as close as a society can to being a voluntary scheme, for it meets the principles which free and equal persons would assent to under circumstances that are fair...its members are autonomous and their obligations they recognize self-imposed'.¹⁸

I think we are now in a position to offer a preliminary definition of modern liberalism, similar to the way I offered a definition of republicanism at the end of chapter 3 (note that this was not a

17 The best treatment is still John Dunn, 'Consent in the political theory of John Locke', in John Dunn ed., *Political Obligation in its Historical Context*, Cambridge University Press, Cambridge, chapter 3. Cf. Don Herzog, *Happy Slaves: A Critique of Consent Theory*, University of Chicago Press, Chicago, 1989. See also the discussion in Ronald Dworkin, *Taking Rights Seriously*, Harvard University Press, Cambridge Mass, pp. 150-183; and *Law's Empire*, Cambridge Mass, Harvard University Press, 1986, pp. 190-5. Rawls is, of course, explicit about identifying his theory as generalizing 'the familiar theory of the social contract as found, say, in Locke, Rousseau, and Kant', and that the original position is not 'an actual historical state of affairs' but a 'purely hypothetical situation', Rawls 1971, p. 11. Note that I don't mean to say all liberal theories *must* take some contractualist form. See Brian Barry, *Theories of Justice*, Harvester Wheatsheaf, 1989, pp. 269-71.

18 Rawls 1971, p. 13.

definition of *modern* republicanism). I have taken some time to build up to this because we should not be glib about the complexity of contemporary liberal theories, a tendency unfortunately prevalent amongst some critics. I certainly cannot (and would not even attempt to) provide a complete account here, rather I shall present the strongest picture possible, following the preceeding discussion. Given an assumption of fundamental equality, two ends of a general 'liberal continuum' might look like this: (i) a government is neutral on the question of the good life because we acknowledge as primary the commitment to deal with each other fairly and equally, which rules out favouring one conception over another, and (ii) that a government cannot be neutral because it cannot treat its citizens as equal human beings without a theory of what human beings ought to be.¹⁹ Dworkin, in 1985, opted for the former, and argued that the constitutive morality of liberalism is

a theory of equality that requires official neutrality amongst theories of what is valuable in life...Liberalism does not rest on any special theory of the personality, nor does it deny that most human beings will think that what is good for them is that they be active in society. Liberalism is not self-contradictory: the liberal conception of equality is a principle of political organization that is required by justice, not a way of life for individuals, and liberals, as such, are indifferent as to whether people choose to speak out on political matters, or to lead eccentric lives, or otherwise behave as liberals are supposed to prefer...²⁰

He has recently altered this somewhat. Now liberal egalitarianism is justified in part by an appeal to the 'challenge model' of the human good, where we seek to live well by meeting 'valuable' challenges within the constraints of justice, though it is still the case that 'the government must be neutral in ethics' and not reward any private activity on the grounds that 'one set of substantive ethical values...is superior or inferior to others'.²¹ We might summarize these

19 See Ronald Dworkin, 'Liberalism' (chapter 8), *A Matter of Principle*, Harvard University Press, London, 1985, p.191; also Peter De Marneffe, 'Liberalism, Liberty, and Neutrality', *Philosophy and Public Affairs*, 19, 3, 1990, 253-274.

20 Ibid, p. 203.

21 Ronald Dworkin, 'Foundations of Liberal Equality', *The Tanner Lectures on Human Values*, xi, Salt Lake City, University of Utah Press, 1990, pp. 3-119, at p. 41: for the 'challenge model' see pp. 57-9. Cf. his 'Liberal Community', *California Law Review*, 3, 77, 1989, pp. 479-504. I do not have the space to elaborate the complexity (and richness) of Dworkin's most recent discussions here, except to say that I have kept them in mind as I worked on this

supposedly opposing commitments as between the 'procedural' and the 'substantive'.²² Rawls evokes a similar kind of distinction in his discussion of the relation between liberalism and what he calls a 'comprehensive' doctrine. Given the 'practical political matter' that there are a plurality of conflicting and incommensurable conceptions of the good present in modern democratic societies, justice as fairness, presented in the context of a form of political liberalism,

is not a conception of justice that is true, but one that can serve as a basis of informed and willing political agreement between citizens viewed as free and equal persons...To secure this agreement we try, so far as we can, to avoid disputed philosophical, as well as disputed moral and religious questions. We do this not because these questions are unimportant or regarded with indifference, but because we think them too important and recognize that there is no way to resolve them politically...The absence of commitment to...any particular comprehensive ideal (even autonomy - D.I.) is essential to liberalism as a political doctrine. The reason is that any such ideal, when pursued as a comprehensive ideal, is incompatible with other conceptions of the good, with forms of personal, moral, and religious life consistent with justice and which, therefore, have a proper place in democratic society...²³

I have quoted these passages at length because I think they clearly present the values embodied in the contractarian position we have been examining up to now, as well as some of the key themes in Locke's work, which are constitutive, at least in part, of contemporary concerns. Two general points of divergence immediately come to light. One is that in our examination of Locke's theory, we never came across any straightforward argument for (what we now call) state 'neutrality' between competing conceptions of the good, nor any argument calling for the abstention from any 'special theory of the personality' (in fact quite the opposite). Claims that these two points represent the 'historic core' of liberalism are misleading; they are certainly one strand extending out from the 'core', but in the end tell us more about contemporary concerns than about any 'ultimate' foundations of Liberalism. Perhaps the deepest shared concern has been the attempt

chapter.

22 For these terms see Michael Sandel, 'The Procedural Republic and the Unencumbered Self', *Political Theory*, 12, 1, 1984, pp. 81-96; Taylor 1989, and his 'The Politics of Recognition', in Amy Gutman ed. *Multiculturalism and 'The Politics of Recognition'* (With commentaries by Amy Gutman, Steven C. Rockefeller, Michael Walzer, and Susan Wolf), Princeton University Press, 1992, pp. 56-7.

23 John Rawls, Justice as Fairness: Political not Metaphysical, *Philosophy and Public Affairs*, 14, 3, 1985, pp. 228, 245-246.

to discern 'how far [any political community] has contrived to make itself a true civil society and how far it remains (for many or even most of its members) just a state of suppressed war'.²⁴

This provides the framework for the next two sections, where we will examine some of these points in more detail, and especially the relation between the importance of liberty and the accompanying account of the liberal personality or self, and probe more deeply into the idea of 'political liberalism' as an alternative to comprehensive (or substantive, or 'perfectionist') doctrines.

7.2 The personal is political?

A consideration of the concepts of liberty and self in contemporary liberal theory would seem to call for an extensive review of the debate between communitarians and proceduralists²⁵ (if between different liberal tendencies), or separately between liberals and anti-liberal communitarians. However, given the concerns of this thesis and its emphasis on the similarities between supposedly opposing traditions from which, I think, these two frameworks emerge, I will not do so here. This is partly because so much has already been said (of very high quality²⁶), but mainly because I want to stand back from the conventional way of looking at these issues and look at them from a

24 John Dunn, 'Rights and Political Conflict', in Dunn 1990, p. 59. Cf. Rawls 1985, p. 230 (section II): 'The only alternative to a principle of toleration is the autocratic use of state power'. See also the characteristically unblinking analysis of Noam Chomsky, most recently in his *Deterring Democracy*, Vintage, London, 1992, especially pp. 351-405 [Cf. his (along with E.S. Herman), *Manufacturing Consent*, Pantheon, 1988]. It is interesting to read Chomsky's claim that the 'abdication of rights is the hallmark of more free societies' alongside Richard Tuck's account of the history of rights in *Natural Rights Theories*, Cambridge University Press, 1979.

25 The term is used in the sense I mean here by Charles Taylor (*Sources of the Self: The Making of the Modern Identity*, Cambridge University Press, 1989, pp. 85-7): 'The rationality of an agent or his thought is judged by how he thinks, not in the first instance by whether the outcome is substantively correct. Good thinking is defined procedurally'. See also Michael Sandel, 'The Procedural Republic and the Unencumbered Self', *Political Theory*, 12, 1984, 81-96. Cf. Brian Barry 1965 (1990), pp. 97-100; and Rawls 1971, pp.

84- 5: 'The intuitive idea is to design the social system so that the outcome is just whatever it happens to be, at least so long as it is within a certain range'. See the interesting discussion in Stuart Hampshire, *Innocence and Experience*, Cambridge Mass, Harvard University Press, 1989, pp. 72-78.

26 I am thinking here of the discussions in Kymlicka 1989, pp. 47-99, 1990, 199-237; and S. Mulhall and A. Swift, *Liberals and Communitarians*, Oxford, Basil Blackwell, 1992 *passim*.

different perspective. Given the more complex account of the foundations of these issues in earlier chapters, we should be freed from having to subscribe to any crude restraints on the scope of liberal theory in particular. I will assume that the general contours of the strong communitarian argument are familiar enough by now, and turn directly to the issues at hand.

One of the weakest claims of communitarian critics of liberalism is a phenomenological one. This is that people cannot distance themselves (when thinking about the nature of their being or well being) from a fundamentally constitutive association or connection with community. In an obvious way this is true, since none of us can wholly abstract ourselves from the attachments of our communities (some of which we may understand to be 'constitutive' beyond any superficial sense), but it overstates the nature of this connection by implying that they are so fundamental as to be impossible to step outside at all. All this really means is that no one can put everything that makes them what they are into question at once, which is very different from saying that there is some fundamental connection which cannot be even partially transcended. It also too easily translates this phenomenological fact into a universal claim about all members of a given category which holds across the board in all possible kinds of communities, that is to say, this nondetachable connection is not something simply shared in one sphere of life but in all spheres, and thus is inescapably constitutive in relation to our self-understanding in these spheres. But of course people do question their constitutive attachments on all sorts of different levels and at different times, or, if they don't, certainly 'fail' to 'live up' to them, or do what their tradition or culture 'recommends'. This might even include rejecting that very identity by repudiating the culture to which it is attached.

And yet the questions are important ones. What role do abstract ideas have in the formation of a community and equally, what is the role of these ideas and the community in the formation of a personal identity

or self? To what extent does a theory presupposes a kind of person, or more accurately, a kind of disposition or relation to self on the part of that person (since presumably all political theories need people to theorize about)? How does this relate to the identities, character, and sense of self-regard of individuals, which for most of us, are after all, bound up in complex real histories?

It is an important issue for Rawls too, despite what one would gather from the communitarian literature.²⁷ Zeroing in on the derivation of

27 Rawls spends most of the last third (especially sections 65-79) of the *Theory of Justice* working out the role and significance of community in his theory. The argument rests on a three part axis between what he calls the 'Aristotelian principle' (AP), the primary good of self respect, and his formulation of a 'social union'. The first is a principle of motivation (a 'natural fact'; p. 428) which gives content to one's life plan (beyond being moved simply by bodily needs; p. 431), that is, that 'human beings enjoy the exercise of their realized capacities...and this enjoyment increases the more the capacity is realized, or the greater its complexity' (p. 426). There is an intersubjective component here as well, which is that in exercising his realized abilities according to a rational plan informed by the AP, his 'fellow associates' will see the activities as promoting the 'common interest' and take pleasure in them as displays of 'human excellence' (p. 429). This brings us to 'perhaps the most important primary good', self-respect (or self-esteem p. 440). It has two key elements. Firstly, it is a person's sense of his own value and secure conviction that his 'conception of the good, his plan of life' (Rawls does not distinguish between these two) is worth carrying out. Secondly, it implies a confidence in one's ability that one's intentions can be fulfilled. Given this, what supports our sense of self-respect is having a rational plan of life which satisfies the AP, and finding our 'person and deeds appreciated and confirmed by others' (p. 440). However, since the potentialities of each are greater than he can hope to realize, different persons with similar or complementary capacities may cooperate in realizing their 'common or matching nature'. Hence the importance of 'social unions'; 'it is through social union founded upon the needs and potentialities of its members that each person can participate in the total sum of the realized natural assets of others' (p. 523). From the perspective of the principles of justice, there are many different kinds of social unions, which are not ranked according to any fundamental value. Yet a 'well ordered society' (corresponding to justice as fairness) is itself a form of social union, though of a special kind, since it is a 'social union of social unions'. It is important to note how these three elements hang together; living with others in the context of a diverse range of social unions framed by a larger 'social union of social unions' provides the communal basis for self-respect, and encourages the realization of talents and capabilities people value in themselves, and not just instrumentally. The crucial point for Rawls here is that this 'larger plan' (the public institutions of society), does not establish a 'dominant end' to which all individuals and associations must be subordinate, but that it is 'regulative' such that the constitutional order realizes the principles of justice (p. 528).

There are other non-individualistic aspects of Rawls theory which can be brought out, especially given the recent emphasis of Rawls that there is no way of trying to derive the content of justice within a framework that uses 'the rational as the sole normative idea' (Rawls 1985, p. 239). See Susan Moller Okin, 'Reason and Feeling in Thinking about Justice', *Ethics*, 99, 1989, pp. 229-249, who claims that Rawls theory is founded upon the notion of equal concern for others, and that his construction and theory of moral development are devices of 'empathy and benevolence' (p. 246). Whether this is more clear in the 'later Rawls' or the 'early Rawls' is stuff for the 'Comment' pages of obscure political theory journals.

his theory of justice from a 'thin' theory of the good, Charles Taylor, for example, claims that Rawls appeals only to instrumental goods rather than 'substantive' ones, and thus is not capable of articulating 'the point of the rules which define the right'. Ultimately, 'much contemporary moral philosophy', in focusing on 'what it is right to do rather than on what it is good to be...has no conceptual space left for a notion of the good as the object of our love or allegiance'.²⁸ Both points relate to Taylor's wider claims about liberal atomism or, more specifically, the 'atomism/instrumentalism complex', where, in addition to the above points, individuals are portrayed as self-sufficient outside of society, without a need for a communal context within which to develop their capacities for self-determination, and are generally put at the centre of political theory and action.²⁹ The last claim is certainly true of contemporary theories as I have been describing them here, though only in a broad sense and in need of all sorts of qualification. The other points are more problematic.

Interestingly, Rawls gives us a picture of the 'atomist/instrumentalist' complex:

Its chief features are first that the persons comprising it, whether they are human individuals or associations, have their own private ends which are either competing or independent, but not in any case complementary. And second, institutions are not thought to have any value in themselves, the activity of engaging in them not being counted as a good but if anything as a burden. Thus each person assesses social arrangements solely as a means to his private aims. No one takes account of the good of others, or of what they possess; rather everyone prefers the most efficient scheme that gives him the largest share of assets...Private society is not held together by a public conviction that its basic arrangements are just and good in themselves, but by the calculations of everyone, or of sufficiently many to maintain the scheme, that any practicable changes would reduce the stock of means whereby they pursue their personal ends.³⁰

In the next paragraph he rejects this notion as having anything to do with his version of social contract theory; in fact in order to understand what he takes to be the 'social nature of mankind' in a non-trivial sense, we must see it in contrast with this conception of 'private

28 Taylor 1989, pp. 89, 3.

29 Charles Taylor, 'Atomism', *Philosophy and the Human Sciences: Philosophical Papers 2*, Cambridge University Press, , pp. 187-210; 1989, pp. 195-7, 505-6.

30 Rawls 1971, p. 521-2.

society': 'human beings have...shared final ends and they value their common institutions and activities as goods in themselves. We need one another as partners in ways of life that are engaged in for their own sake, and the successes and enjoyments of others are necessary for and complementary to our own good'.³¹ Only in what Rawls calls a 'social union' is man complete. There are other issues here which I will leave for now, the main point being to emphasize Rawls' acceptance of the role of the community in his theory, for both the individual and society as a whole. As he says, without an account of the value of community, the theory of justice 'cannot succeed'.³² The principles of right of the theory of justice must not only permit but help sustain the ways of life that citizens can and want to affirm as worthy of their 'full allegiance' and love; 'justice draws the limits, the

- 31 Ibid, pp. 522-3. The real target of those opposed to this 'atomism/instrumentalist complex' should be kind of argument we find in David Gauthier, *Morals by Agreement*, Oxford University Press, 1986, for example p. 341: 'A just society has no aim beyond those given in the preferences of its members. As a co-operative venture for mutual advantage, it enables each to promote what she holds good...A just society is concerned only to enable each person to realize the greatest amount of her own good, on terms acceptable to all'.
- 32 Ibid, p. 264; cf. p. 263. It is important to note that Rawls acknowledges the dangers of civic alienation and the decline of the participatory ethic in the context of liberal constitutional regimes. All citizens are to have an equal right to take part in and determine the laws under which they live: 'If the public forum is to be free and open to all, and in continuous session, everyone should be able to make use of it. All citizens should have the means to be informed about political issues. They should be in a position to assess how proposals affect their well being and which policies advance their conception of the public good. Moreover they should have a fair chance to add alternative proposals to the agenda for political discussion.' (p. 225) To ensure the viability of the 'principle of participation', compensating steps have to be taken, including the subsidization of the means for 'fair public discussion', and the importance of disallowing disproportionate influence to be exercised by powerful 'special interests' (pp. 225-6). He recognizes that voting is hardly the most effective way of instituting change given its limited scope for implementing or even signalling the kind of change envisaged by his ideal theory. (cf. p. 226-7). Thus Rawls has no trouble incorporating classical republicanism into his theory, understood as the view that if citizens are to preserve their basic rights and liberties which secure the freedoms of private life, they must have a sufficient degree of political virtue and take part in public life (John Rawls, 'The Priority of the Right and Ideas of the Good', *Philosophy and Public Affairs*, 17, 4, 1988, pp. 272-3; he refers to Skinner here for his account of classical republicanism). The point is that these activities are not carried out as a means of expressing man's essential nature, or as the most worthy (morally speaking) form of life, but only as necessary for the protection of the basic liberties of democratic citizenship which allows each individual or association to follow their own conception of the good to reasonable extents. He does, however, suggest a form of 'political liberalism' which has implications for the way people should hold and make claims in the context of public affairs. See below for further discussion.

good shows the point'.³³

These points follow from the basic outline of liberalism we examined above in section 6.2, where we saw how the pre-modern assumption of man's natural liberty comes to be understood in a different way, that is, people are naturally interested in attending to a conception of the good. The task of morality changes in accordance with this 'natural fact'; given irreducible social heterogeneity, morality is less concerned with convincing people to look for the ultimate worthwhile way of life, and instead concentrates on providing ways of respecting other people's good.³⁴ This characterization is too crude, since the relation between social arrangements and the formation of conceptions of the good and plans of life are deeply complementary, but the main point is to note the work that the concept of liberty is doing. An assumption of liberty is linked to an individual's conception of the good. Liberty is required for the individual herself to come to know her good whatever it may be, or perhaps to question and revise the one she currently holds.³⁵

It is important to understand the context within which the liberty principle of contemporary liberalism is set, since it certainly does not follow that it is exclusively concerned with liberty as such, to the detriment of other concerns. The distinguishing features of contemporary Rawlsian liberal theories are their egalitarian claims in relation to the respect for liberty, epitomized by their rejection of any fundamental contradiction between the core concepts of equality and liberty. They overcome any conceptual opposition by asking questions about the possible combinations of 'extents' of liberty and equality, and how much of one would have to be sacrificed to achieve a given level of another. An extent of freedom would include a range of options to be acted upon, with an extent of equality dependent on whatever was

33 John Rawls, 'Justice as Fairness: Political not Metaphysical', *Philosophy and Public Affairs*, 14, 1985, pp. 251-2.

34 I am indebted here to Will Kymlicka, 'The Ethics of Inarticulacy' (part of a Symposium on Charles Taylor's *Sources of the Self*), *Inquiry*, 34, 2, 1991, pp. 169-171.

35 John Stuart Mill, 'On Liberty', in Richard Wolheim ed. *John Stuart Mill: Three Essays*, Oxford University Press, 1975, especially pp. 17-18. Cf. Rawls 1971, p. 209-211.

decided as an adequate measure of equality - be it 'primary goods', resources, or 'capabilities'. This is necessarily an individual and collective interpretative project; that is, the options or range of options would in part be constituted by our evaluation of what was most valuable according to our considered judgement (s). These evaluative judgements about options involve a process of ranking what 'counts' for more or less, or, more accurately in this case, which liberties are to be equalized or prioritized.³⁶ This is explicitly the motivation behind Rawls' lexical ordering of liberty and equality, which he proposes as 'a reconciliation of liberty and equality'.³⁷

What is the nature of liberty in Rawls' theory? Liberty is a certain 'structure of institutions, a certain system of public rules defining rights and duties', and a 'complex of rights and duties characterizes any particular liberty'.³⁸ We are always dealing with a system of liberties in which one is dependent on the specification of another, and certain liberties are singled out above others for special treatment. Though in general we might say that a greater liberty is preferable, this holds true only for the *system* of liberty and not for each particular liberty we are able to identify. Thus when we read Rawls' first principle of justice, that '[e]ach person is to have an equal right to a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all', he is not according a superior position to liberty *as such* but rather to a 'scheme' (or list) of 'basic' liberties.³⁹ These basic

36 This is brought out very well I think by Steven Lukes, *Moral Conflict and Politics*, Oxford, Clarendon Press, 1991, pp. 58-9, 65.

37 Rawls 1971, p. 204. For an account which comes to diametrically opposite conclusions (not only about Rawls, but Locke too), see Ian Shapiro, *The Evolution of Rights in Liberal Theory*, Cambridge University Press, 1986.

38 Rawls 1971, pp. 202, 203.

39 The first principle was amended from 'the most extensive total system of equal liberty' (Rawls 1971) to the one quoted above, in 'The Basic Liberties and their Priority', *The Tanner Lectures on Human Values vol. III*, University of Utah Press, 1982), in response to criticisms from Hart ('Rawls on Liberty and its Priority', *Essays in Jurisprudence and Philosophy*, 1985, pp. 223-247). Remember that the second principle of justice is that 'Social and economic inequalities are to satisfy two conditions: they must be (a) to the greatest benefit of the least advantaged members of society; and (b) attached to offices and positions open to all under principles of fair equality of opportunity. (Rawls 1971, pp. 302-3; 'Social Unity and Primary Goods', in A. Sen, B. Williams eds., *Utilitarianism and Beyond*, Cambridge,

liberties include political liberty, freedom of speech and assembly, liberty of conscience and freedom of thought, freedom of the person and the right to hold property, and freedom from arbitrary arrest.⁴⁰ According to Rawls, this particular 'scheme' of liberty is superior to the second principle of justice (dealing with the social and economic inequalities) and may not be made subordinate to it. The only time the basic liberties can be sacrificed would be for the greater protection of other basic liberties, or when one basic liberty conflicts with another.⁴¹

There are deep reasons for Rawls in prioritizing the basic liberties. This is brought out in his 'Kantianization' of the contract procedure such that the outcome of the deliberations is an expression of the 'moral personalities' of the participants.⁴² A 'Kantian doctrine', says Rawls, 'joins the content of justice with a certain conception of the person', persons who are free, equal, and capable of acting rationally and reasonably, and thus able to take part in 'social cooperation'.⁴³ Towards this end, he identifies two 'moral powers' as capacities inherent in this conception of the person which enable them to be 'capable of being normal and fully cooperating members of society over a complete life'.⁴⁴ The first is the capacity to honour the fair terms of social cooperation and be reasonable, i.e. have a sense of justice: 'to understand, to apply and ...be moved by an effective desire to act from (and not merely in accordance with) the principles of justice as the fair terms of social cooperation'. [The parenthetical remarks are interesting and I shall return to them below]. The second capacity relates to what Rawls calls 'the Rational', that is, to what each individual is trying to advance on their own behalf, i.e. their 'conception of the good': a capacity to 'form, to revise, and rationally to pursue such a

Cambridge University Press, 1982, pp. 161-2; referred to hereafter as Rawls 1982b.

40 Rawls 1971, p. 61.

41 Joseph Raz (*The Morality of Freedom*, Oxford University Press, 1986) has called Rawls and Dworkin 'revisionist theorists' of liberty. See pp. 6-16.

42 John Rawls, 'Kantian Constructivism in Moral Theory', *Journal of Philosophy*, 77/9. pp. 515-72.

43 Ibid, p. 518.

44 Rawls 1982, p. 14.

conception...a conception of what we regard for us as a worthwhile human life'.⁴⁵ Furthermore, these two moral powers are our two 'highest order interests', the interests to realize and exercise the capacity for a sense of right and justice, and the capacity to decide upon, revise, and rationally pursue a conception of the good.

All of this, as is surely familiar by now, is derived from the characterization of the 'original position', about which I shall simply say is intended to *model* the sense in which it is appropriate to regard people as free and equal when thinking about justice.⁴⁶ The restricted knowledge built into people's 'situation' in the original position is meant to dramatize the substantive importance of the two principles of justice; if that person has a higher order interest in the capacity to choose, act on, and change their minds about their own conception of the good, they need the basic liberties to do so, and if they don't know their own position in the distribution of economic and social goods it is rational for them to ensure that inequality is justified only when it helps the worst-off. Since the parties are not even supposed to know the particular ends of their own conception of the good, they cannot choose any specific means to achieve them, and thus put forward a list of means which would enable them to advance a wide plurality of ends - what Rawls calls 'primary goods'. The basic liberties of the first principle are prioritized among these primary goods precisely because, according to Rawls, they protect the capacities of persons which are so fundamental, that one could not envisage them being compromised for the sake of some other primary good.⁴⁷

The basic liberties are chosen by the parties and awarded a superior place because they are required to advance any conception of the good, and necessary for the exercise of the two moral powers which any such conception presupposes. Intimately related to this prioritization is the

45 Rawls 1982, pp. 15-6.

46 Rawls 1971, pp. 19, 21. See the excellent discussion in S. Mulhall & A. Swift, *Liberals and Communitarians*, Oxford, Blackwell, 1992, p. 9. Also Brian Barry, *The Liberal Theory of Justice*, Oxford, Clarendon Press, 1972; and 1989.

47 Rawls 1982, p. 26.

practical nature of the primary goods, that is to say, they can 'actually provide' a scheme of basic equal liberties to be made part of a political constitution and 'instituted in the basic structure of society', ensuring the development and exercise of the highest order interests of all citizens.⁴⁸ There are two things I want to note here: the introduction of an element of implementation and practice, and the indication that the content of citizenship is related to the protection and enhancement of the structure (the 'scheme') of equal basic liberties. One implication is that what is being talked about here is a specific way of thinking about justice, or more generally, about that aspect of our moral lives which takes place in relation to others in the context of the distribution or justification of public goods. Another is that when the capacity to revise and change our particular values and views on how to live our lives is described as a 'higher-order interest' justifying the prioritization of the rights of the first principle, it is not merely that we are capable of it (i.e. that it is an accurate description of the capacities of actual individuals), but that it is in a strong sense the content of the conception of liberty which is at stake.⁴⁹ Contemporary liberal theories (at least as portrayed here) fully accept that 'what people will want to do will depend...on the character of the society in which they live and the conditions they find themselves occupying within it'.⁵⁰ Talk of freedom here does in fact tell us something (though not everything)

48 Rawls 1982b, p. 167.

49 Thus it is not surprising that Rawls (1971, pp. 71-2) explicitly rejects a Smithian 'system of natural liberty': 'Intuitively, the most obvious injustice of the system of natural liberty is that it permits distributive shares to be improperly influenced by these factors (i.e. the prior distribution of 'natural assets' - natural talents and abilities) so arbitrary from a moral point of view... The liberal interpretation, as I shall refer to it...seeks, then, to mitigate the influence of social contingencies and natural fortune on distributive shares'. Also, because individuals and their associations offer up 'definite ideals and forms of life' that have been developed and tested over time, when drawing up our lifeplans 'we do not start de novo; we are not required to choose from countless possibilities without given structure or fixed contours'. (*Ibid*, pp. 563-4) Of course, the hierarchical structure of principles of the theory does not aim at 'the complete specification of conduct'; rather 'the idea is to approximate the boundaries, however vague, within which individuals and associations are at liberty to advance their aims and deliberative rationality has free play' (*Ibid*, p. 566).

50 Cf. Barry Hindess, 'Liberty and Equality', in B. Hindess ed., *Reactions to the Right*, London, Routledge, 1990, p. 24, who in the context of this quote says they don't.

about the content of such a life. To see this we need to see the concept of liberty and its role in the structural conditions (and their legitimating theories) of civil society as always being in close relation to a particular concept of the self and its capacities. It isn't simply a matter of creating the possibility for choice, one has to learn, as it were, to 'choose well'.⁵¹ The real problem for contemporary liberals lies in the conception of the person built into their theory meeting its reflection in the world outside; at first glance, it doesn't seem to recognize itself.

7.3 Liberal circumstances

I have been focusing on the relation between the well-being of individual lives and the well being of the community to which they belong as supposed in certain aspects of contemporary liberal political theory. This brings us to a question examined in previous chapters about the nature of an 'art of government' connected to a proposed set of assumptions or theory: what is the nature of the art of government of contemporary liberalism? This is to ask about the capacities and conditions that go along with the kind of person presupposed by liberal theories. What we find is that these theories presuppose a fair degree of dispositional homogeneity, not to be confused with the Walzerian account of a deep common understanding regulating the way in which particular goods should be distributed (with 'real' diversity only occurring between communities rather than within them). In presupposing this community of persons, liberalism takes it either as a given reality, or something that is itself an 'artefact' of the practices of liberal government.⁵¹ Thus, in a sense, the assumption of a particular self on the part of liberalism with an attendant set of capacities suited to the efficacy of that theory is something of a fiction; that is to say, it is compelling and yet it is not something we find necessarily to be true.⁵²

51 See the interesting discussion of the need for a liberal 'context' of choice in Kymlicka 1989, chap. 8, especially pp. 166-8.

51 I am indebted to Barry Hindess here for helping to bring out this claim more sharply. See his 'Power and Rationality': The Western Concept of Political Community', *Alternatives*, 17, 149-63; 'Liberalism, Socialism, Democracy; variations on a governmental theme', paper presented to the Foucault and Politics Conference, London, September 1992. (1992b).

52 Cf. Hindess 1992.

Some might balk at the idea that these capacities are anything more than could be assumed to be the property of all relatively sane people - a basic rationality and sense of 'reasonableness'. But in political theory we are usually dealing with a fairly specific set of capacities relating to the ability to judge and act politically in order to get the right results, i.e. those demanded by the core values of the foundational doctrine. I will develop this more fully below.

Before continuing, however, let me clarify what I mean by referring to Rawls' 'circumstances of justice', which touch directly on this issue. The discussion of 'circumstances' is important because it is, in effect, an implicit admission of the fictional element mentioned above.⁵³ These are the 'normal conditions under which human cooperation is both possible and necessary' and the conditions under which social cooperation requires some kind of mediation by the principles of justice.⁵⁴ The parties have 'roughly' similar needs and interests, though each has his or her own plan of life (or conception of the good; Rawls uses them interchangeably, much to his detriment it could be argued) and and thus they all have different ends and purposes and make 'conflicting claims on the natural and social resources available'. The interests advanced by these plans are the 'interests of a self that regards its conception of the good as worthy of recognition and that advances claims in its behalf as deserving satisfaction', which is essentially the ground for what Rawls would later call the 'fact of pluralism'.⁵⁵ Remember our discussion about the conception of the person. According to Rawls, people regard themselves as having a 'higher-order interest' in how all their interests are shaped and regulated by social institutions. They do not think of themselves as bound to a 'complex of fundamental interests', but rather as free persons who conceive of themselves as 'beings who can revise and

⁵³ I am indebted to Barry 1989, pp. 179-83.

⁵⁴ Rawls 1971, pp. 126-7.

⁵⁵ Ibid, p. 127. John Rawls, 'The Domain of the Political and Overlapping Consensus', *New York University Law Review*, 2, 64, 1989, pp. 233-55. See Barry (forthcoming). 'Appendix A'.

alter their final ends and who give first priority to preserving their liberty in these matters'.⁵⁶ Above all, we need the ability to revise our ends and to pursue these revised ends, and so require resources pertinent to a wide range of valued ends rather than to a specific or preferred conception of the good. This, of course, is roughly Rawls' own conception of the good; given ineluctable social diversity, and given that our beliefs about value are fallible, the freedom to pursue or revise existing projects is important for leading a life that is 'good'. There is a fundamental difference between Rawls and the 'communitarians', then, on the nature of the person; people possess a higher-order interest in the capacity to frame and revise their conception of the good, and it is *this* which is important to people and is constitutive of their well being. This conception of the person is also meant in a specifically political sense. The role of the political philosopher is to articulate the 'basic intuitive ideas that are embedded in the political institutions of a constitutional democratic regime and the public traditions of their interpretation', and the conception of the person is linked directly to the implicit consensus of political agency present in such a political culture (with the important proviso that it is not itself part of a comprehensive moral or political doctrine).⁵⁷ It appears that the sources of political agency and capabilities in society are in large part the institutions which frame that society, and that this agency, in turn, is to hold these same institutions to account. One immediate question is how feasible is it to expect the main institutions of society to be dependent mainly on the assumed presence of this sense of justice in the person of the office-holders, and more generally, in the citizens themselves?

This was an issue for Locke too, who grounded his theory of popular sovereignty on the hypothesis that political institutions and traditions

56 John Rawls, 'Reply to Alexander and Musgrave', *Quarterly Journal of Economics*, 88, p. 641.

57 Rawls 1985, p. 225; 'The Domain of the Political and Overlapping Consensus', *New York University Law Review*, 64, 2, 1989, p. 242.

were derived from, and rested upon, the prior freedom of the people to exercise political power themselves. This 'exercise' included the ability to know and interpret standards of right, to judge controversies in accordance with the law, and execute any 'punishment' in proportion to the transgression and with regard to proper restraint and reparation. There were good political reasons for making this argument too, since it was claimed by his opponents (usually Anglican Royalists), that political abilities and capacities were only acquired in the context of the practices and institutions of *the* community. It was precisely this 'overlapping consensus' which Locke wanted to avoid, and he claimed against it that though the faculty of political judgement was in part shaped by practices, it was not exclusively shaped by the *dominant* intuitions of the given political culture, and could be developed in the context of oppositional practices and cultures, such as in Dissenter communities, amongst whom he had spent time whilst in exile himself.⁵⁸ He was also convinced that given the inherent partiality of man, the reason for which civil society was established in the first place, the institutions set up to act impartially on behalf of its citizens were always, in the end, accountable to these individual judgements; i.e. measuring the extent to which people's trust in their governors had been abused, and whether or not any violation justified a right (based on a primary duty to God) to revolt. This was, of course, premised on the institutions of representative government, but also on the disposition of an activist citizenry on a fairly wide scale.

For Rawls it is a matter of public justifiability; his is a theory justifying the political arrangements of a society to its citizens, which it can only do, if it is to achieve some kind of consensus, by restricting itself to those public and political conceptions which are shared in that society. The point of doing this has to do with making the process of justification wholly transparent to citizens, given the fact that the basic

58 See above chapters 4-5, and James Tully, *An approach to political philosophy: Locke in contexts*, Cambridge University Press, 1993, especially chp 10, *passim*.

institutions of society do have 'long term social effects and importantly shape the character and aims of the members of society and the kinds of person they are and want to be'. The full publicity condition which Rawls draws up is meant to ensure that free and equal persons can know and accept those background social influences which 'shape their conception of themselves as persons, as well as their character and conception of the good'.⁵⁹ This is linked to a general understanding of freedom; a person is free only if those institutions and background influences that shape their perception of themselves and their conception of the good are transparent. But, remember, this is a freedom based mainly on our understanding of ourselves as citizens, and not in any comprehensive sense. And this is precisely what makes it problematic. The matrix which must be made transparent is that of the *political* community, those 'social institutions' and 'background social influences' of the specific political culture within which citizens act as political beings. But this assumes that all those institutions which influence citizens' characters in the most fundamental ways are to be found in the 'basic structure of a constitutional democratic regime', and that people recognize them to be this way.⁶⁰ Rawls is not wholly wrong to assume so, because it is clear that these institutions have influence beyond simply their formal structures and remits. However, by expressing it exclusively in terms of the transparency of the political realm, is he not making it difficult to get a grip on the relations of power that influence people's deepest aspirations and which are only related to public culture in complex, subterranean ways?⁶¹ Rawls hopes that once the principles of justice are public, they

59 Rawls 1980, pp. 538-9.

60 Rawls 1985, p. 228.

61 By this I mean it is assumed that political power can be pinpointed according to a traditional picture of legitimate government in constitutional democracies, that is to say, that power is held in a concentrated form and executed directly according to various branches of government. Transparency occurs when all those aspects of legal and social coercion which affect the plans and deep aspirations of individuals are visible, and that if they agree to them, they do so in light of the condition of 'full publicity'. But what of those powers which are not as our picture of constitutional democracy presupposes, but nevertheless have deep effects on that basic structure; for example, multinational capital, or the policies of powerful multinational

come to assume a 'wider role in public culture' and foster the very conception of the person it presupposes: the 'citizens are made aware of and educated to this conception. They are presented with a way of regarding themselves that otherwise they would most likely never have been able to entertain'.⁶² There are even a set of political virtues, aside from the obvious sense of justice, which the state has an interest in fostering, and which characterize those kinds of conduct and judgement that are essential to sustaining fair cooperation between citizens so understood (such as toleration and mutual trust). For Rawls, the importance of the right 'social milieu' in producing the right kind of self-understanding is obvious, and not surprising, for the key question which he must try and answer is not simply why we need justice, but why we have good reason to act in accordance with it. (Hence the importance of the parenthetical remarks I noted above in section 6.3).⁶³

In part the move to identifying a 'political' liberalism is a means of restricting the scope of the theory for Rawls, and thus restricting the applicability of his conception of the person - it is a conception which is only relevant in particular circumstances. This opens the possibility of accepting the principles of justice even whilst being attached to some other comprehensive doctrine, of seeing the relevance of liberal values only in the context of politics.⁶⁴ However, I think this does have

financial institutions, such as central banks or the World Bank? Could a worked-up theory of international justice conceivably have a 'global publicity condition'? See James Tully, 'Introduction', John Locke, *A Letter Concerning Toleration*, 1983, pp. 14-16; Michel Foucault, *Power/Knowledge: Selected Essays and Interviews*, London, Harvester Press, 1988, pp. 78-108; and Hindess 1990, pp.25-31.

⁶² Rawls 1980, p. 553.

⁶³ As Barry (1989, p. 394) makes clear: 'a Rawlsian would not simply regard a law as a tariff setting out the penalty for certain conduct if he is caught and convicted; rather he would be moved to compliance by the sense of justice'.

⁶⁴ Rawls 1985, pp. 224-5. But note that 'the political' is not itself an absolute good: 'We need not establish the absolute importance of political good, only that it is a significant good within a political conception of justice'. Rawls 1988, pp. 251-76. Thus Owen Flanagan in his excellent book (*Varieties of Moral Personality: Ethics and Psychological Realism*, Harvard University Press, Cambridge Mass., 1991) treads a thin line when he claims that Rawls' conception of the person is 'akin to the Aristotelian one' (pp. 126-7). Aristotle held that human beings were by nature political (*Ethics*, 1169b16-19; *Politics*, 1252b31-1253a7) Anyone deprived of a chance at political office suffers a diminution in good living, since to

implications for self-understanding as a whole, because even though it might not be a conception of the person 'all the way down', it is a substantive point about the nature of citizenship (Rawls is in part saying that this is not only what citizenship is like but *should* be like), and citizenship is the means by which we are implicated in the political and social order of the community within which our person - all the way down - lives.⁶⁵ But can the way we conceive of ourselves as citizens be hermetically sealed off from our other concerns and self-understandings? It is clear for Rawls that this is something 'latent' in the public political culture, but also something that can (and must be) fostered and learnt; that is, citizens must learn to revise and pursue conceptions of the good as free and equal people. Indeed the liberties of citizenship are absolute in this regard.⁶⁶ Crucially, this means that people's decisions about their life-style must be adjusted to what they can 'reasonably expect', and they must recognize that the weight of their claims is not given by the 'strength or intensity of their wants...even when these are rational'.⁶⁷ This is what it means for people to 'conform their conceptions of the good to what the principles of justice require'.⁶⁸

What shape does this relation to self take? As a number of recent commentators have pointed out, it is (at least) a bifurcated one, between a public political self and a private 'personal' one.⁶⁹ That is,

be alienated from being able to act with effect in the affairs of one's *polis* was to be alienated from the grounds of good living itself. See the enlightening discussion in Martha Nussbaum, *The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy*, Cambridge University Press, Cambridge, 1986, pp. 345-353. Rawls explicitly rejects the Aristotelian line in 1988, pp. 272-3.

65 I am therefore not convinced by Kymlicka's easy distinction between 'collective activities' and 'political activities' - the latter being things organized and accounted for 'through' the state, the former operating 'below the state' (amongst which he includes universities, the mass media, and trade unions). See Will Kymlicka, *Contemporary Political Philosophy: An Introduction*, Oxford, Clarendon Press, 1990, p. 221.

66 Rawls 1971, pp. 3-4.

67 Rawls 1980, p. 545.

68 Rawls 1971, p. 31. Kymlicka 1989, p. 37.

69 Mullhall and Swift (1992, p. 209) say it entails a kind of 'schizophrenia', and Bernard Williams ('Left-Wing Wittgenstein', *Common Knowledge*, 1,1,1992, pp. 33-42) that it introduces elements of 'dissociation' or 'alienation' at the social level, and generates a form of citizenship motivated by fairness, but 'not much more'. See also the discussion in Barry

each citizen must suspend those deep beliefs that relate to their own comprehensive conceptions of the good (which might even give their life its coherence and integrity), when engaging in public life as citizens, a category they must recognize as distinct from their identity as, say, a Muslim or Inuit. Moreover, when the latter identity comes into conflict with the former political conception, the political conception always wins.⁷⁰ It is not a matter of denying that this kind of cognitive act is even possible (as some communitarians seem to imply), but rather gauging its plausibility as an acceptable condition on the part of those for whom it is something to be consciously done; that is, understanding the nature of its cost. I suggest that the classic examples that crop up in liberal political theory seminars at this point - of the 'religious-fundamentalist-nazi-spouse-beating-child-molester' kind - should be set aside in favour of a more subtle evaluation of what a liberal theory would ask of 'real' distinct cultures in the world around us. Even in the case when the recognition of the deep structures of cultural value are brought into a 'strong' liberal theory, they are treated just as structures and little more - the sources for a 'context of choice' (the 'definite ideals and forms of life that have been developed and tested by innumerable individuals, sometimes for generations').⁷¹ Cultures only survive in any meaningful way if those

1989, 'Appendix C', pp. 393-400.

70 Rawls 1980, p. 544.

71 Rawls 1971, pp. 563-4. Kymlicka 1989, pp. 166-78. One of Kymlicka's clearest statements of the extent of recognition of cultural structures can be found on p. 197 (1989): 'supporting the intolerant character of a cultural community undermines the very reason we had to support cultural membership - *that it allows for meaningful individual choice*'. (my emphasis) Cf. p. 59-60: 'there are two aspects to the liberal conception of freedom of association...Liberals have historically insisted (quoting Rosenblum) "that the public sphere should limit not only the political power of religious groups but also the power private groups exercise over their own members". Tolerance defends the first of these components of freedom of association, but not the second...Plurality and mutual respect do not seem sufficient to defend *the full range of liberal freedoms*' (my emphasis). Both quotes point to the problems of Kymlicka's account. It is dubious to suppose that people value cultural 'structures' mainly because they allow for 'meaningful choice'; liberals might, but as a general reason for everyone it is absurdly unrealistic, and probably just plain wrong. The second quote is more revealing, since it admits that the point about liberal cultural structures is that they help in the protection and enhancement of specifically *Liberal* freedoms. Cf. the discussion in Joseph Raz, *The Morality of Freedom*, Oxford University Press, Oxford, 1986, p. 424, who admits that though a liberal perfectionist would be justified in pursuing a policy

who belong and identify with these 'structures' are able to suspend this aspect of their being when engaging in public discussion, or, if they are lucky, when their practices don't happen to conflict with those of a dominant liberal culture. There is a real dilemma here and I don't want to imply that it is easily dissolved one way or the other: exactly which practices - and the sense of identity and attachment therein - can be shaved from cultural structures without precipitating disintegration or collapsing them altogether? Careful empirical study might not even provide an answer here because the question would still remain as to who is to decide the place of the priority of cultural membership to 'political' membership. (This might depend on the extent of our belief with regard to the justification of social arrangements; must they be acceptable in some form to *every* citizen?) Of course we might not really care about the costs of imposition, or if not so callous, claim that any intervention, so long as it was based on the right kind of liberal theory, would not cause fatal cultural damage, and simply justify it on the basis of our claims about the necessary universality of *our* tradition. This is one aspect of the inheritance from Locke's theory of toleration; there are times (the occurrence and extent of which are notoriously ambiguous in Locke) when the overall value of the political order outweighs any particular claim or course of action, whatever the cost of that 'lost' practice to the coherence of that sect.⁷² But this does not provide any internal reason for the other party to accept your course of action, nor is it conducive to them describing what you have done as 'reasonable' in light of the circumstances.

What would the inner life of a liberal be like? Rawls's solution calls for people to treat their own comprehensive views as private opinions (or whatever), and to not impose them on others. The claim seems to

of assimilation against non-liberal communities within in liberal states, wrenching them out of their cultural environment might make it impossible for them to have any subsequent meaningful life.

⁷² Note, though, that if this power was abused, there was a *de facto* and *de jure* case for an appeal to the right of revolution. The point at which legitimate power became 'abuse' was precisely the judgement individuals must be capable of perceiving and acting upon.

be that these core 'political principles', as the constraints of social unity (a 'social union of social unions'), are not overriding to the extent that private actions and associations are transformed and reconstructed in the light of liberal public principles. But this isn't entirely clear. The liberal appears to be in a different category here. She can say that there is a difference between claims about how people should live their lives and judgements about how people should be treated by their fellow citizens and by the state. Her comprehensive doctrine, political liberalism, understood here in the specifically Rawlsian sense, lays claim only to the sphere of politics and the ideas latent in that shared public culture, and thus supposedly does not rely on a wider doctrine of what a good human life is. But as I mentioned above, I think this does in fact have a consequence for the way in which people are expected to hold their beliefs in the 'non-political' realm. For the most part, it means injecting a fair degree of scepticism into their world-view, as is pointed out (it seems) by Rawls himself, and other commentators.⁷³ This is because they must come to believe that the moral power to form and revise a conception of the good is not just a good, but one of the higher-order interests of human beings in general. And thus they must come to believe that though they hold their comprehensive doctrine close to heart, they cannot act on its central tenets unless the practices flowing from it happen to be compatible with (fundamentally) liberal ones. Though the liberal is not a sceptic in the strongest sense, the need to distance oneself from particular beliefs remains an important element of contemporary liberal arguments. And insofar as it asks people to act in such a way in public matters whatever may be true of their 'non-public' identity, it is profoundly unconvincing; if not to you, than certainly to the people to whom it is addressed.

Perhaps I can summarize the two versions of a liberal self and its

73 Cf. Brian Barry, 'How Not to Defend Liberal Institutions', in *Liberty and Justice: Essays in Political Theory*, vol. 2, 1991, pp. 23-39.

attendant capacities that have been floating around above.

One version could be (L1):

Though perhaps having an overarching or comprehensive conception of the good that organized and informed their 'personal' life, they would have to accept that their fellow citizens would not necessarily be convinced by their arguments emerging out of this comprehensive good and carried over to the political sphere, and it would be unreasonable of them to think that this should be otherwise. They would also have to be prepared to accept a reasonable objection to their conception, regardless of where, or from whom, it came.

And the other (L2):

There is a liberal comprehensive ideal to live up to. The capacity to choose is more basic and more important than what is chosen. Because I engage with my character, commitments, and projects critically and interpretatively, I do not accept social norms and practices as given, and expect others to be the same way; that is I respect persons with reflexive capacities. I recognize an abstract personhood in myself and others and pay my highest allegiance to impartial (and impersonal) rules of law. I forsake any all-embracing memberships derivative of a homogeneous local community, and embrace the membership of overlapping communities and the abstract community of all persons in an 'Open Society'.

There appear to be real differences. No doubt L2 is more robust than L1 and does away with the theoretical niceties concerning the possibilities of grounding liberal conduct in the circumscribed practices of modern liberal democracy. Equally, L1 seems more 'tolerant' than L2 since it precludes the (seeming) obliteration, or at least marginalization, of 'personally' held comprehensive conceptions of the good, or even local communities *tout court*. We do in fact see this kind of doctrinal schematization within the literature.⁷⁴ And yet they are not really that far apart in at least two key respects. Firstly, they both require that private commitments have a certain form and fall within a certain range. L2 is pretty straightforward in that regard; all private commitments are subject to a wide ranging revisionist and sceptical cognitive apparatus, and are not worthy of being held if they cannot be so submitted. If, in the case of L1, private comprehensive conceptions are meant simply to be shunted aside from the process of public justification, then this too requires a belief system and an attendant set of capacities which will allow one to do precisely that, especially if those private conceptions have elements which necessarily overlap in

⁷⁴ Cf. William Galston, *Liberal Purposes: Goods, Virtues, and Diversity in the Liberal State*, Cambridge University Press, 1991.

contradictory ways with one's own perception of oneself as a public actor (i.e. as a citizen), or with the maintenance of that order itself (where the perception is that of other parties). Secondly, both rely on a (hopeful) socialization thesis concerning the proliferation of their accounts in the institutional matrices of real political and social structures. Again, L2 is pretty straightforward towards this end; liberalism is a regime, and its core principles shape the character of the community all the way down. Stephen Macedo sums this up well, I think, when he writes that liberalism is about 'agreement on values that are by no means neutral, and those public values have a private life'.⁷⁵ L1 is more surreptitious in its designs, almost neo-Straussian. For Rawls, because people usually hold their comprehensive views in a loose way, those who go along with liberalism merely as a *modus vivendi* don't immediately see that a relationship can develop between their personal values and the governing liberal principles. In other words, they come to embody the principles through habit rather than any reasoned argument directed at those personal comprehensive conceptions. This is a curious development for an account so dependent on subjects developing a highly 'reasonable' disposition, though one with a long lineage in the history of political thought, as we have seen in the chapters above.⁷⁶

The *ideas* of citizenship expressed in the two versions of liberal conduct mentioned above are certainly an important part of liberal democratic societies, but they do not capture how, in fact, these institutions operate.⁷⁷ Hence the importance in Rawls' theory, and in other Rawlsian theories, of the 'circumstances' of the application of their core principles. As a result there is something deeply pessimistic

⁷⁵ Stephen Macedo, *Liberal Virtues*, Oxford, Clarendon Press, 1990, p. 257.

⁷⁶ John Rawls, 'The Priority of the Right and Ideas of the Good', *Philosophy and Public Affairs*, 17, 1988, pp. 274-5. See also Macedo 1990, p. 65; and compare the discussion of political theory and its 'by-products' in Jon Elster, *Sour Grapes: Studies in the Subversion of Rationality*, Cambridge University Press, 1985, especially at II.9.

⁷⁷ Barry Hindess, 'Taking Socialism Seriously', *Economy and Society*, 20, 4, p. 376.

about the whole process⁷⁸, depending as it does upon the propagation of a set of dispositions it must hope people come to understand on their own and apply to their dealings with others in the public realm, or be inculcated and enacted by vigorous legislative and educational activism which runs the risk of at least undermining the basis of social cooperation across multiple pluralities, if not betray some of the core principles of the doctrine itself. In this sense it is a Faustian option; instead of relying on the theoretical and psychic force of a claim of impartiality emerging from the rational arguments therein, it turns to the means of the direct transformation of the rationalities themselves. Liberal theory is thus never just a matter of saying (to borrow from Charles Taylor in a different context) 'I don't understand', or 'develop your intuitions', but more radically, 'change yourself'.⁷⁹

7.4 Perfecting liberal autonomy

In the discussion up to now about the relation between liberty and self in contemporary liberal theory, and particularly in that of Rawls, the reader might have been wondering when and where the discussion of autonomy would begin. I hinted at it above when I said that contemporary liberals had by and large displaced a commitment to liberty as such in favour of 'freedom-related values' like autonomy. It is time for me to explain more of what I mean by this. I have left it until now for two main reasons. Firstly, it is sometimes assumed that the core value of liberalism is about recognizing, enhancing, and

78 Which I think accounts for the rather crude charges made against Rawls that the kind of political theory he has spawned is generally irrelevant to (or too distant from) the modern political world. The most brazen example of this charge is made by John Gray ('Against the New Liberalism: Rawls, Dworkin, and the emptying of political life', *Times Literary Supplement*, 1992, pp. 13-15) who accuses Rawls of attempting to build 'Kantianism in one country', based not on the intuitions of modern liberal democracies, but the 'unexamined intuitions of the American academic *nomenklatura*'. For a different view see B. Barry, 'Social Criticism and Political Philosophy', in Barry 1991, pp. 9-22, especially p. 22: 'The Rawlsian approach of identifying principles of broad scope and universal aspiration and using them to attack entrenched inequalities has to its credit the success - partial but still significant of the anti-racist and anti-sexist movements within the past thirty years'.

79 See Charles Taylor, 'Self-Interpreting Animals' and 'What is Human Agency', *Human Agency and Language: Philosophical Papers* Vol. 1, Cambridge University Press, 1985, pp. 15-76.

protecting individual autonomy.⁸⁰ This puts an inordinate amount of emphasis on choice, such that whatever is not chosen cannot be worthy of our dedication or involvement, or be a source of value to us; this entails saying something like, 'I am autonomous if the values that guide my life are my own'. But this is vastly overstated and leaves all the important questions unanswered. We can imagine another kind of liberal theory which accepted the idea that no conception of the good should be given special advantage at some higher constitutional level, but isn't necessarily a theory wholly organized around the principle of autonomy. The idea here is that any claim based on a strong principle of individual autonomy takes its place in the political forum where it competes against other principles or arguments as to the scope of its application as an organizing principle in society.⁸¹ Note that this is not an argument for the elimination of autonomy as a value, or even for its displacement at the center of liberal concerns, rather it is to question whether it can reasonably be said to be *the* organizing principle of liberal theories instead of just *a* principle which liberals value highly. The reason for having left this unsaid until now is to emphasize the fact that it is something that has to be argued for rather than assumed, and that one could quite plausibly derive other principles according to variations on the 'core' values of liberalism. The distance between my versions of L1 and L2 might be said to represent two liberal variations.

80 This is Kymlicka's argument: 'we lead our life from the inside, in accordance with our beliefs about what gives value to life...we [have] to be free to question those beliefs, to examine them in the light of whatever information, examples, and arguments our culture can provide. People must therefore have the resources and liberties needed to lead their lives in accordance with their beliefs about value' (Kymlicka 1990, p. 204). It is also arguably Rawls' position, given the role of the 'higher order interests' (see Mullhall & Swift 1992, pp. 252-3 for a summary of this). However, strictly speaking, substantive moral reasoning concerning the principles of justice has normative priority over individual autonomy. In drawing up their life plans individuals have to take the constraints of the principles into account. See Rawls 1971, p. 31.

81 This is roughly the kind of argument that theories of justice as impartiality make, see T.M. Scanlon, 'Contractualism and Utilitarianism', quoted in Barry 1989, p. 274. It is also the implication of feminist political theory that the idea of autonomy defined as the free pursuit of one's projects must be completely rethought, given the way responsibilities to others (beyond the fair provision of equal resources) and the role of caring for dependents etc., are understood. These arguments seem to me utterly convincing, though I can't pursue them here.

Secondly, it seems to follow from assuming that autonomy is the core doctrine of political liberalism *par excellence*, that it is 'the special character of autonomy that one cannot make another autonomous. One can bring the horse to the water but one cannot make it drink'.⁸² However, as we have seen in chapters 4-5 and above, this is far from having been a necessary constraint on what liberal theories have attempted to do both in the past and now. At the very least it is an ambiguity that extends out from the historic core of liberalism. We find that even those liberal theorists for whom autonomy is explicitly the foundational value, presume more than they argue for. I want to now concentrate mainly on the tension between an assumption of autonomy and the conditions necessary for its flourishing. In doing so, I will touch generally on the relation between 'perfectionism' and liberalism.

It is in the recent work of Joseph Raz that we find perhaps the strongest and most sophisticated argument for the importance of personal autonomy in an account of liberal freedom.⁸³ For Raz, an autonomous person is 'author of his own life. His life is, in part, of his own making...A person is autonomous only if he has a variety of acceptable options available to him to choose from, and his life (becomes) as it is through his choice of some of these options'.⁸⁴ The key points in this otherwise standard account are the appearance of the phrases 'in part' and 'acceptable options'. The former signals that Raz is realistic about addressing his theory to real, need-driven human beings rather than to some abstract construction. Indeed Raz qualifies his account by noting that the authorial metaphor is not meant to 'conjure

82 Joseph Raz, *The Morality of Freedom*, Oxford, Clarendon Press, p. 407.

83 Ibid, *passim*. This is a profound and complex work which I have no intention of summarizing or paraphrasing here. My discussion of it will be highly selective and only directly relevant to the issues at hand. See the excellent article by Jeremy Waldron, 'Autonomy and Perfectionism in Raz's Morality of Freedom', *Southern California Law Review*, 62, 1989, pp. 1098-1152; as well as the helpful reply by Raz ('Facing Up', pp. 1153-1235) in the same issue. But see also Vinit Haksar, *Equality, Liberty, and Perfectionism*, Oxford University Press, 1979.

84 Ibid, p. 204.

up' the image of a 'regimented' person who decides at a young age 'what life to have and spends the rest of it living it out according to plan'.⁸⁵ What matters for Raz is not so much the genesis of one's projects, but that we recognize the possibility of changing them or continuing with them, that when we choose we do so for good reasons, and that we identify with our choices.⁸⁶ The second point indicates that it is not just any set of possible options which constitute the possibility of autonomy, but an 'acceptable' set, a criterion that has important political implications, since Raz goes on to say that 'the autonomy principle permits and even requires governments to create morally valuable opportunities and to eliminate repugnant ones'.⁸⁷ The deep point here is that treating citizens with equal respect does not entail abstaining from questions about the validity of options to choose from, but from 'treating one another...in accordance with sound moral principles...One would be showing disrespect to another if one ignored moral considerations in treating him'.⁸⁸ Thus a person's well being depends ultimately on the value of her beliefs, and not on her belief in their value.⁸⁹

Autonomy is understood both as a set of capacities and an achievement. In the latter sense, people are autonomous if their lives are of their own making, with the qualifications noted above. In the former sense, someone is autonomous if he can determine the course of his life, and if he lives in an environment where self-determination is possible. Thus the 'conditions of autonomy' must encompass both individual and environmental elements; adequate individual cognitive capacities (minimal rationality, the mental faculties to plan actions etc), as well as the opportunity to 'actually use' these capacities to 'choose what life to have' that is, '[t]here must...be adequate options

85 Ibid, p. 370; cf. 371, and 387-88 where he rejects an 'exaggerated' concept of autonomy, i.e. a 'doctrine of arbitrary self-creation based on the belief that all value derives from choice which is itself not guided by value and is therefore free'.

86 Ibid, pp. 290-1. Waldron 1988, p. 1112.

87 Ibid, p. 417.

88 Ibid, p. 157.

89 Ibid, p. 298. Mulhall & Swift 1992, p. 255.

available for him to choose from'. The final element is that this choice be free from 'coercion and manipulation by others', where manipulation is understood as perverting 'the way [a] person reaches decisions, forms preferences or adopts goals'.⁹⁰

This establishes a key problem for Raz which distinguishes him from other 'autonomy theorists' and anti-perfectionists. How can Raz combine a concern for autonomy and the non-coercive choice of life plans with a robust perfectionism? Remember that Rawls does not disagree with the perfectionist that the good is what gives the point to principles of right, but that they disagree over how to best promote different people's good. Thus his 'contract doctrine' is similar to perfectionism in wanting to encourage certain traits of character, providing a conception of the person, and taking into account things other than the importance of utility satisfaction, but it does so without 'invoking a prior standard of human excellence'.⁹¹ For Rawls, our essential interests are harmed (or in Kymlicka's phrase, we can't live our life 'from the inside') when a particular view of the good is enforced, since this means people are not free to choose their own conception.⁹² For both Kymlicka and Rawls, it is particularly insulting to a person's essential interests that it be the coercive power of the state that enforces any particular conception of the good, given that it is not even clear that these conceptions of the good or forms of life need state power or approval to exist (though Kymlicka has a more nuanced argument here).⁹³

90 Ibid, pp. 373, 377-8.

91 Rawls 1971, pp. 327-8.

92 See Kymlicka 1989, pp. 33-6; and 1990, p. 204-5.

93 Rawls 1971, p. 328-9, 543. Kymlicka accepts the importance of there being worthwhile cultural structures and options for all, but denies that this entails rejecting neutralist claims. See Kymlicka 1990, pp. 218-230; cf. 1989, p. 81, chp. 8 *passim*. Margaret Moore ('Liberalism and the Good Life', *Review of Politics*, 4, 53, 1991, p. 688) completely misrepresents Kymlicka's position when she claims that he criticizes 'the neutral...starting point associated with many contemporary liberal theories' (citing Rawls 1971, pp. 260-63, 587 as representative of this position). This is, in fact, one important difference which Kymlicka acknowledges explicitly as distinguishing his position from Raz's. (*loc cit*; as well as in his 'Liberal Individualism and Liberal Neutrality', *Ethics*, 99, 1989, p. 903: 'While liberalism need not be committed to neutrality in all times and places, the relationship between the culture and the state in our society makes neutrality particularly appropriate for

Raz's main strategy is to insist that supporting valuable ways of life as a social activity is required if we are to ensure the survival of many 'cherished aspects' of our culture, i.e. the social conditions of freedom.⁹⁴ This flows from his general account of the social dimensions of individual freedom, which describes, how the comprehensive goals of individuals are only possible if based on 'existing social forms...on forms of behaviour which are in fact widely practiced in...society'.⁹⁵ For Raz this is entirely consistent with 'experimentation, and with variations on a common theme and the like', since the public perception of these social forms possesses an 'internal richness and complexity'. And yet though a person might transcend the social form and give it their 'individual stamp', even then 'the distance they have travelled away from the shared form is...the most significant aspect of their situation'.⁹⁶ Perfectionist practices support the valuable forms of the good available in society, it is a public activity which does not stand-off from conceptions of the good; quite the opposite. The crucial move for Raz is to alleviate the anti-perfectionist fear that perfectionism always means the imposition of one form of life on any other and more specifically, entails the use of coercive political power by a 'moral majority' against recalcitrant social 'dissidents'. Raz meets this head on: 'A moral theory which recognizes the value of autonomy inevitably upholds a pluralistic view. It admits the value of a large number of greatly differing pursuits among which individuals are free to choose'.⁹⁷ It does not follow that perfectionism must take the form of some morally rigorous view, in fact, autonomy as an ideal means being committed to moral pluralism. If, as we have seen, a person is

us'. Cf. 1990, p. 229: 'I believe that liberal neutrality is the most likely principle to secure public assent in societies like ours, which are diverse, and historically exclusionary.'

94 Raz 1986, p. 162.

95 Ibid, p. 308.

96 Ibid, pp. 309-10, 312-3. This limits the scope of change that can occur in society, as Raz makes clear (p. 427): 'Since values are grounded in concrete social forms there is no room for radical political action to secure a fundamental change of social conditions. Politics is the art of gradual amelioration.'

97 Ibid, p. 381.

autonomous only when she can be author of her own life, it would follow that having only one option is not enough to fulfill the conditions of autonomy, even in part. Of course, Raz stipulates further that the choice be between not just any options, but 'valuable' or good options. Raz argues that, whatever governments do, whether following principles of neutrality or anti-perfectionism, they do so for moral reasons and not on the grounds of moral skepticism. Thus, if in the 'real world' (as Waldron puts it ⁹⁸) perfectionist principles are invoked to defend discrimination against homosexual relationships, atheism, or the use of harmless narcotics, Raz can argue that these are not immoral ways of living and their being banned or circumscribed is an abuse of perfectionism. He justifies this partly through a modified version of Mill's harm principle, tacked on, as it were, to his principle of autonomy. Following Mill, he accepts that government cannot use coercive means (for example, the criminal code) to discourage people from committing 'victimless immoralities'. Perhaps inconsistently, it is justified on both prudential and moral grounds; the criminalization of 'victimless crimes' is ruled out by a concern for autonomy (it expresses a 'relation of domination' and 'disrespect' to the individual[s] concerned), and also because there is no 'practical way' to ensure that only 'repugnant' choices will be restricted, and not other (non-repugnant) ones as well.⁹⁹ But instead of seeing the harm principle mainly as a way of *curtailing* the freedom of government to enforce morality, as 'a principle about the proper way to enforce morality', it might allow for certain positive state actions.¹⁰⁰ It remains the case that governments can use 'coercive' methods to promote the conditions of autonomy, but only 'non-coercive' ones to combat

98 Waldron 1989, p. 1130.

99 Raz 1986, pp. 418-9. See his more recent formulation in 'Liberalism, Skepticism, and Democracy, *Iowa Law Review*, 74, 1989, pp. 761-86.

100 Raz 1986, p. 415. For another account of Mill's harm principle which goes beyond its strictly negative form and includes a more 'positive' sense, see Brian Barry (forthcoming), 'Appendix B'. The positive principle states that it is a sufficient condition for preventing an act that it has directly harmful consequences, where the risk of harm is not (reasonably) outweighed on some conception of the good by gains inseparable from that risk.

‘immoralities’ (we shall discuss his idea of coercion below). If one feels one can make judgements and even be right about the moral considerations lying at the base of all political action, judgements which anti-perfectionists make with regard to the basic institutions of society, why not about the character of the good life and the realm of the ‘art of life’, i.e. what makes up a ‘successful, meaningful, and worthwhile life’?¹⁰¹

This brings us to the vexed question of coercion. Raz is upfront about its role in his argument: ‘Perfectionist goals need not be pursued by the use of coercion’.¹⁰² This is because perfectionist means are ‘encouraging and facilitating’, or involve simply the ‘discouraging’ of undesired modes of behaviour. This might involve ‘conferring honours...giving grants or loans...taxing one kind of leisure activity...more heavily than others’, which is very different from ‘imprisoning people who follow their religion...grow long hair, or consume harmless drugs’.¹⁰³ But Raz recognizes that in the end, activities like taxation and subsidization involve some coercion, in that, for example, taxation is compulsory on the pain of going to prison if one refuses to pay. Yet coercion is only justified on the grounds that it is used to enforce the duties flowing from the three conditions of autonomy mentioned above (mental abilities, freedom from coercion and manipulation, and a variety of good options).¹⁰⁴ Thus we have duties to help in developing the ‘inner capacities required for the conduct of an autonomous life’, to refrain from coercing or manipulating others, and to create an adequate range of options from which to choose for everyone.¹⁰⁵ Since the last duty rests on the claim that supporting valuable forms of life is

101 Raz 1986, pp. 160-1, 213-14. Also 1989, p. 1230: “‘Perfectionism’ is merely a term used to indicate that there is no fundamental principled inhibition on governments acting for any valid moral reason, though there are many strategic inhibitions on doing so in certain classes of cases.”

102 Ibid, p. 417. But note that it is justified in specific circumstances in ensuring a fair degree of autonomy for all; see pp. 413-4 and below, and Waldron 1989, p. 1140.

103 Raz 1986, p. 161.

104 Ibid, pp. 407-8.

105 Ibid, p. 408.

necessarily a social rather than individual matter, the state can (and must) act to provide people with these valuable options. An important question for Raz (an 'enormously difficult problem') is what constitutes an *adequate* range of valuable options; i.e. how many constitutes adequate, and what counts as an adequate exercise of control over one's life? As Raz makes clear the first question is posed incorrectly, for it is clearly *not* a question of numbers, but variety.¹⁰⁶ It is not like asking a man who has crossed the Sahara by foot whether he wants a bottle of Evian or Perrier (as Alan Bennett's response supposedly was when asked about his sexual orientation). Options should be discernible for good reasons. Though vague, Raz outlines a sense of the capacities, and the 'innate drives for their use', that human beings have, such as 'to move around, to exercise our bodies, to stimulate our senses, to engage our imagination and our affection, to occupy our mind'.¹⁰⁷ Thus

[t]o be autonomous and have an autonomous life, a person must have options which enable him to sustain throughout his life activities which, taken together, exercise all the capacities human beings have an innate drive to exercise, as well as to decline to develop any of them¹⁰⁸

Now this is obviously extremely vague, as Raz admits, but it is so in order to encourage elaborations of its non-culture-bound frame, 'cashed in terms of the options available in a particular society' so that they can be evaluated and compared.¹⁰⁹ It is also vague because Raz's deep target is the anti-perfectionist claim that these kinds of judgements should not even be broached. This does not mean

¹⁰⁶ Ibid, p. 375. Moore (1991) seems confused about this. In the middle of the main paragraph on p. 686 she acknowledges that Raz would deny that the matter of adequacy is a 'purely quantitative one', but then in the last sentence says that he 'misleadingly treats the question of what counts as an "adequate" range of options as a quantitative one' and refers to pp. 374-5 (her n.40). But Raz's explicit discussion of what 'counts' as adequate takes place on pp. 375-6, where he not only denies that it is a 'quantitative' matter but provides a provisional definition of an adequate range of options (which I discuss immediately above). Thus it is odd for Moore to say that Raz 'does not indicate how [he] would define what options would count as acceptable' (p. 687) when she hasn't even bothered to provide an account of the definition Raz provides.

¹⁰⁷ Raz 1986, p. 375. This seems a distant cousin of Rawls' 'Aristotelian Principle'.

¹⁰⁸ Ibid, p. 375.

¹⁰⁹ Ibid. Cf. the helpful discussion in Mulhall & Swift 1992, pp. 277-8.

government acts in every instance to do with an individual's 'art of life', or to create every valuable option at all costs; the state can act only where it is likely to make correct judgements and should not intervene where it is more important that its 'subjects' should decide for themselves.¹¹⁰ But these limitations do not rule out perfectionist considerations altogether, since whether or not a particular moral objective is to be pursued is a question to be judged on the merits of each case, and not precluded *a priori*. This distinguishes Raz from a more holistic communitarianism, since his arguments do not necessarily entail a strong centralist government (though undeniably relying on a robust statism):

The espousal of a pluralistic culture, to the extent of supporting competitive pluralism, and the autonomy-oriented conception of personal well-being militate against support for a strong government. The role of government is extensive and important, but confined to maintaining framework conditions conducive to pluralism and autonomy.¹¹¹ Thus liberty, autonomy, political authority and coercion (of the right kind), are not in the least inimical, they are interdependent.¹¹²

A fundamental charge against Raz's arguments as we might deduce from our discussion above in sections 6.3 and 6.4, would be that he has failed to accept the 'core' concerns of liberalism with regard to liberty and individual selves. That is, given the value of individual autonomy to liberals, in justifying political action by the state on perfectionist principles, Raz has made 'some special insult' by granting it the possibility of taking advantage of its situation to 'do our moral thinking for us'.¹¹³ But this presupposes seeing autonomy as a fundamental principle of liberalism in a special way, that is, as a matter of priority against other principles. It also presupposes a commitment to freedom and respect for individuals such that the justification of

110 See Ibid, pp. 23-107 for the extensive discussion of authority; cf. 1989, pp. 1231, 1233. Raz is vague about what should necessarily be left to individuals, but does mention that beyond being left alone to decide on trivia such as personal hygiene, we should also have influence over our choice of occupation and friends (it would be 'intolerable' if we didn't). This is one aspect of the question of the 'adequacy' of options.

111 Raz 1986, p. 427.

112 See Ibid, p. 18.

113 Waldron 1989, p. 1152. I am assuming this would be a fairly widely held position on the part of mainstream liberals who held autonomy to be the core doctrine of liberalism, or weaker variants thereof.

social arrangements must be 'acceptable or be capable of being made acceptable *to every last individual*'.¹¹⁴ In other words, government intervention on matters that involve judging or encouraging different forms of life, or conceptions of the good, usurps that which is naturally the province of individuals. In unique ways, given its vast powers and scope, government distorts, as it were, the balance of merits and drawbacks that any option or conception of the good has, which the individual would otherwise be able to discern on her own (given the appropriate general capacities and opportunities etc.). But this view seems to imply that either all authority is illegitimate, or that only authority which can be defended on moral grounds to each and every individual is legitimate. The former is absurd and the latter seems overly rigorous; or is it? Raz provides an interesting variation on the ambiguity I identified above (in chapters four and five) between an assumption of the natural autonomy and liberty of individuals on the part of ideal theory, and the attempts to wrestle with the reality of actual selves trying to create the conditions of real liberty. Raz's concern with the promotion of a capacity for autonomy, what he calls towards the end of his book 'positive freedom', justifies the state's duty of not merely preventing the denial of freedom, but promoting it by creating the 'conditions of autonomy'. This is what he means by insisting that 'negative freedom', or freedom from coercive interference, is valuable inasmuch as it serves 'positive freedom and 'autonomy'.¹¹⁵ To his credit, he is not overly sanguine about the difficulties involved. There are dangers of 'corruption, of bureaucratic distortions and insensitivities, of fallibility of judgement, and uncertainty of purpose...the insufficiency and distortion of the information reaching the central organs of government', and generally the concentration of power in a few hands. Full blown perfectionist policies pursued at any cost are counter-productive and lead to civil strife, and thus should be

114 Waldron 1987, p. 128 (my italics).

115 Raz 1986, p. 410.

confined to matters which either command some social consensus, or which involve 'gentler measures' favouring one trend over another. What government can or cannot achieve is also a matter of political culture and constitutional history, aspects of which need to be studied and learned from in a general analysis of political institutions that 'must supplement any inquiry into political morality'.¹¹⁶ And yet in the end we return to one of the other core values of liberalism, which we saw play such a prominent role in Locke - trust. How far we can entrust any government or political machine to do good 'looms large' in Raz's theory, and I would say, in liberal theory as a whole.¹¹⁷

In this chapter I have spent some time developing a specific picture of contemporary liberalism flowing from the core concerns of preceding chapters and the thesis as a whole, that is, the relation between the concepts of liberty and self. We have also examined in the latter half of the chapter two ways within this tradition that the core assumptions about liberty, the self, and community are related in a more general theory concerning the shape of a modern liberal society. Rawls' political liberalism and Raz's autonomy-based perfectionism are examples of two forms of liberal political argument which take seriously the nature of the relationship between individual and political liberty and the moral personality; just as seriously, I want to argue, as republicans or civic humanists claim to do in their accounts.

I began this chapter by noting an 'ambiguity' within the liberal assumption of the juridical subject; between the presupposition of the naturally free, equal, reasonable and rights-bearing subject, and the fact that this very subject is in part constructed by disciplinary practices. The goal here was to pursue this 'ambiguity' into and through some contemporary liberal theories' understandings of the relation between liberty and self. I wanted to move beyond making some 'airy allusion' from history and take the context of contemporary theories just as

¹¹⁶ Ibid, pp. 427-9.

¹¹⁷ See Ibid, chp 15 *passim*; 1989, p. 1231-2.

seriously as some (with one eye on the twentieth) take that of the seventeenth or eighteenth century. I have attempted to show that even contemporary theorists rely in part on simultaneously presupposing and actively fostering the necessary dispositions and relations to self their theories need in order to work, or at least to be relevant to the facts of our world. This results in a certain kind of liberal disciplinary power, which is by no means necessarily dangerous or sinister, but which we should try to understand.

Conclusion

If we were to summarize the tensions inherent in the relation between the concepts of liberty and self in contemporary political argument, tensions that are explored or at least touched upon in all the forms of political argument examined above, it might be that any meaningful or worthwhile understanding of self (and thus, at least potentially, a meaningful and worthwhile life) is only possible in the context of particular practices (cultural and/or political) which enable the development of the capacities necessary for any kind of reflexive self-understanding. No one argues (or at least should not try to) that we spring autonomous from the womb choosing our way through life, and thus the cleavages emerge in the characterization of the nature of these practices. To generalize, one account (or set of accounts) claims that the deficiencies of contemporary political culture - and sometimes this is extended to include modern culture *tout court* - are legitimated (or at least reflected) in a 'mainstream' liberal political theory whose good is not good enough and whose idea of community is without any sense of meaningful collective purpose. Moreover, it is said to be incoherent, since the lofty ideals of liberal political argument (dignity, autonomy, rights, etc.) are undermined by the deficiencies in the character-building capacities of liberal political culture; the primacy of the value of autonomy expressed through the deification of choice is undermined by the unwillingness of liberal theory to engage with the 'comprehensive' views of society and provide the grounds for 'adequate' choice. What this amounts to, as one recent critic has put it, is that what's the matter with liberalism is that it has no matter.¹ As we have seen, we find various republican, communitarian, and perfectionist arguments all converging on at least some aspects of this kind of complaint. In fact there are two parts to this claim which need to be

1 See Ronald Beiner, *What's the Matter with Liberalism?*, Berkeley, University of California Press, 1992.

brought out. The first relates to the unwillingness of contemporary liberal political argument to engage 'on all fours' with comprehensive views, and in so far as this is based on the claim that a liberal state can (and must) remain neutral between competing conceptions of the good, it is an effective critique, and one that many liberals have no use for either. Of course it shouldn't be confused with the absurd claim that liberalism is neutral about its own status as a political theory; the point of enforcing 'principles of right' and providing people with primary goods, resources, or rights, is to enable them to affirm and sustain whatever ways of life they choose to pursue. The point is to impress the importance of respecting other people's good, which flows from a fundamental commitment to equality, something Rawls and other contemporary liberals value highly and can hardly be said to be neutral about.² But if we accept the fact that liberalism is a 'regime' in every sense of the word (as I have tried to present it above), then there are still questions to do with the liberal self, ones which revolve around what is presupposed on its behalf by liberal theory and/or what is required of it, i.e. questions about capacities and character formation. Is the self presupposed by certain variants of contemporary political argument something of a fiction, not in the sense that communitarians have complained (for I have tried to show that no one would deny that we are at least partially constituted by our communal attachments etc.), but rather in the sense that the character or capacities required by the theory are something other than what are actually part of our practices and languages of self understanding? And secondly, to what extent is any gap made up by the practices of government, i.e. the demands of the legitimate organizing principles and institutions of society? Both questions presuppose that sticking with the status quo is no option, that even if self-interest is *the* major

2 Beiner's consistent ignorance of this vitiates much of what he says is the matter with liberalism (1992, see especially pp. 138-141).

factor of our contemporary politics³, such that there is an apparent irreconcilable division between (say) the impartial and the subjective when it comes to matters concerning redistribution, this is something to be confronted and transformed as best one can. Here the issue of legitimacy joins up with a broader concern of moral psychology and character formation.

Though there are many different accounts of the political legitimacy of liberal democratic regimes, we can isolate at least two conditions it must have: a role for *some* form of consent, and an argument to justify the political obligations of those who might not consent, or at least find the system unacceptable in some way. Liberal accounts of political obligation must find a way of squaring their belief in the importance of consent and the voluntary imposition of obligation with the requirement that some people in a liberal state incur obligations whether they consent to them or not. I would argue that this is even the case in the constructivist account of political obligation that we find in Rawls (and others), where 'natural duties' are those which would be agreed to or recognized under certain specified conditions, i.e. some form of original position.⁴ There is much to be said for this approach to the question of obligation, since arguing that there are 'natural' duties flowing from recognizably just institutions (where they are doing something that justice requires and not simply just in the

3 I have qualified this ('even if') assumption - made by Nagel - because I think it is an oversimplistic one to make. Though it might be plausible to say that most of us are 'consumed' by self-interest or even 'driven' by it, this is not to say that other moral concerns are not also present. Someone who never felt any guilt, or resentment, or any moral indignation over the treatment of someone else, would be considered strangely incomplete, to such an extent that it would be difficult to conceive entering into relations with him. As Samuel Scheffler puts it (*pace* Rawls): 'moral concerns typically resonate, not only throughout the personality of the individual, but throughout the web of human social relations as well'. Scheffler, *Human Morality*, Oxford and New York, Oxford University Press, 1992, p. 69: cf Rawls 1971, pp. 487-88. Cf. S.L. Hurley, *Natural Reasons: Personality and Polity*, New York and Oxford, Oxford University Press, 1989, pp. 158-9.

4 Rawls believes that political obligation as such does not arise from our voluntary actions but that a 'natural duty' arises with regard to just institutions, i.e. a duty acknowledged as binding in the context of the original position (1971, p. 114-117; see also 1980 generally for the constructivist nature of the project).

way they operate)⁵, does away with any contingency regarding consent or the receipt of benefits, and puts the moral onus upon on us cooperating with and sustaining these institutions precisely because this is what justice demands. The question of it being an 'imposition' evaporates; there is no need to explain the acquisition of a natural obligation beyond establishing that it exists. Though I can only hint at the complexities here, this would entail in some cases telling someone that they are basically irrational to resist a set of obligations because they are duties which everyone would agree to from an ideal vantage point. In essence you would be telling someone that she has accepted the state's authority even if she did not realize it. Another way of putting this has been to say that a political system is legitimate if it respects the fact that everyone's life is equally important and that everyone has a life to live (i.e. at least a sense of a plan of life to follow), where this is unanimously acceptable not in the sense that it is accepted in all its entirety by each and every citizen, but that no one could 'reasonably reject it'. Conversely a system is illegitimate if someone can 'reasonably reject it' on the grounds that it leaves her too badly off in relation to others (a failure with regard to impartiality), or that it demands too much by way of sacrifice of her own interests by comparison with some feasible alternatives (a failure with regard to reasonable partiality).⁶ I cannot pursue the issue of legitimacy in all the complexity it deserves here, but rather want to stand back and draw some more general points. Firstly, to what extent must a self-declared liberal political theory justify itself to the citizens of the society it purports to provide grounds for, or more provocatively, is it a precondition for the acceptance of a moral principle that each individual to which it is applied must be 'empowered' to accept it? At

5 See the discussion in Jeremy Waldron's excellent 'Special Ties and Natural Duties', *Philosophy and Public Affairs*, 22,1,1993, pp. 3-30, especially at 28-30. Cf. A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press, 1979.

6 Thomas Nagel, *Equality and Partiality*, Oxford, Oxford University Press, 1991. Nagel is pessimistic that these conditions can ever be met and claims that we do not even possess an ideal that could help us do so; 'a strongly egalitarian society...is difficult to imagine and in any case psychologically and politically out of reach'.

first glance it might appear that any liberal, given his or her belief in the importance of the equal respect and worth of every human being (that in ethically relevant terms people are all 'free and equal'), would be committed to the belief that any moral principle must be justified on the grounds of respect for the voluntary (in at least some way) imposition of that principle and its constraints. But it turns out not to be as simple as that, perhaps not surprisingly given the complexity of modern social relations, but also on more philosophical grounds as well. Must any theory purporting to legitimate the organizing principles and institutions of modern societies build into itself a principle of minimal psychological realism, i.e. a recognition of the 'degree of difficulty' with regard to the realization of a particular moral psychology?⁷ I would suggest that the range of possible responses falls broadly into two categories:

(1) Though a theory might be normatively plausible, if it makes heavy demands of individual agents it should be dropped, severely curtailed, or perhaps because it is so demanding or 'removed' from human experience, it just is not due the respect it claims.

(2) If morality is demanding then that is just tough, and complaining that it is too demanding is no criticism at all; 'Morality demands what it demands, and if people find it hard to live up to its demands, that just shows that people are not, in general, morally very good'.⁸

A variation of (1) is that in order to think reflectively about our social practices, we need to be 'strong evaluators' and thus possess an identity that is constituted by social frameworks that have passed this scrutiny, where the 'framework' provides the grounds for both identity and agency. If a theory lays demands upon us that are considerably greater than the way we have been acting until then, we need some way of transcending our 'restricted sympathies' and 'self-preoccupation' to see the good of the action demanded; '[h]igh standards need strong

7 I borrow these terms from O. Flanagan, *Varieties of Moral Personality: Ethics and Psychological Realism*, Cambridge Mass., Harvard University Press, 1991.

8 Samuel Scheffler, 'Moral demands and their limits', *Journal of Philosophy*, 83, 1986, p. 531. This is discussed at greater length in Scheffler 1992, pp. 17-19, and *passim*. Though I cannot discuss these issues in any great detail here, I am deeply indebted to Scheffler's discussions on the whole.

sources'.⁹ There are different ways to satisfy this kind of demand and it does not follow in the least that the strong demands of contemporary moral theory - especially theories of justice - necessarily require some kind of theistic or Christian-like transcendence (as Charles Taylor rather brusquely asserts).¹⁰ It just is the case (as Taylor must admit) that today the whole idea of coherent 'frameworks' is utterly problematic, and that in a sense, we are all highly vulnerable to constant crises of identity given this incessant instability. However it might also be the case that most people now are able to exist quite satisfactorily without the transcendental frameworks presupposed by Taylor (and others), and are happy to acknowledge the ultimate naturalness (or even contingency) of the frameworks within which they place (or find) themselves.¹¹

Liberals would seem to be necessarily committed to some version of (2), since admitting (1) would mean accepting the possibility that illiberal practices would be justified on the grounds of wholly respecting people's ground projects.¹² And yet if they fully embrace (2) they are committing themselves to the high probability that their theories and accompanying practices and institutions will perpetuate the incessantly asymmetrical relationship between liberal political theories and 'really existing' liberal societies. I do not believe this is avoided by dressing up the problem with reference to some *a priori*

9 The reader will recognize the arguments of Taylor here (*Sources of the Self: The Making of the Modern Identity*, Cambridge University Press, 1989, p. 27, 516). It must be added that Taylor has never defended an unthinking or unreflective communitarianism, and indeed has been criticized for putting forward an over-intellectualized - i.e. too reflective - account of self-evaluation! See Owen Flanagan, 'Identity and Strong and Weak Evaluation', in Owen Flanagan and Amelie Okensberg Rorty ed., *Identity, Character, and Morality: Essays in Moral Psychology*, Cambridge Mass., MIT Press, 1990, pp. 37-65.

10 Taylor 1989, p. 342, cf. 520-1.

11 Something that I think partially explains the resonance which many non-academic philosophers and students find in the work of Richard Rorty.

12 This is ably demonstrated by Will Kymlicka (1991, pp. 173-4) in his critique of Taylor's *Sources of the Self*: '[M]orality cannot be reduced to questions of individual agency...Where individuals are unable to comply with moral norms, we do not change the norms, we simply try to ensure that someone else [or something else - including the coercive power of the state] will compel their compliance...Morality is...a social institution and cannot be reduced to questions about what particular individuals should be or do' (I have arranged these quotes in an order dissimilar from the text).

sense of 'reasonableness'. I am not denying that reasonableness properly construed could be relevant to an account of someone acting in accordance with the demands of a particular moral theory, but that on its own 'reasonableness' it tells us little of the work it is expected to do. There is also a danger in relying on the proposition of 'what would be not unreasonable to accept' in that this could easily be assimilated with highly contingent (i.e. historically specific) forms of customary judgement. Of course the way a theory would attempt to get around this problem would be to postulate a form of deliberation that committed one to some kind of abstract decision procedure, which would inform any subsequent legislative or practical action.¹³ This is not without controversy too. In fact the kind of complaints which are generated about this are variations on (1). There are those who feel that the theoretical mechanics of normative liberal political theory - i.e. some kind of formal, abstract, decision procedure - not only ignores or misses critical aspects of moral and political argument which cannot be articulated in the form of principles, but allows for the attenuation (and eventual elimination) of our deliberative practices. By this it is meant that the mechanical or technical process of 'procedure' would take over, or at least distance us in significant ways, from all the complexity and 'embeddedness' of our considered judgements. But this fear is unfounded, or at least too weakly formulated. 'Proceduralism', broadly defined, in no way necessitates the obliteration of the important and worthy faculties of moral sensitivity, perception, imagination, and judgement; in fact, it presupposes them. What a moral theory does is to provide an 'abstract representation of a scheme of moral salience', from which (at least in the context of political argument) a certain set of practices or institutions (or both) can be

13 This is (very generally) the strategy of Barry (1989 and forthcoming) for example, building on the formulation of T.M. Scanlon that the moral motive is 'the desire to be able to justify one's actions to others on grounds they could not reasonably reject' where the basis for the rejection of any grounds offered is given by others 'desire to find principles which others similarly motivated could not reasonably reject' ('Contractualism and Utilitarianism', in A. Sen and B. Williams eds. *Utilitarianism and Beyond*, Cambridge, Cambridge University Press, 1982, p. 116 and n.12; in Barry 1989, p. 284.

derived as fulfilling or embodying the morally salient features picked out by the theory.¹⁴ These theories can aim to match our existing patterns of moral response or challenge our all-too-well-entrenched habits of moral thought, and in doing either they are engaging in the reflective activity which is constitutive of the moral and intellectual life of the culture as a whole. The dangers lie in either underestimating or overestimating the efficacy of moral thought, and I would argue that it is precisely the task of political theory to try and get this balance right (as best it can), when it comes to legitimating and/or designing the organizing principles and institutions of our society.

Legitimacy could be seen to be in large part the search for the psychological conditions which generate the greatest degree of stability for any political system. Of course, there is no necessary connection between legitimate regimes and stability, since illegitimate regimes based on an arbitrary or even despotic distribution of political power can also enjoy stability (a phenomenon one hopes will occur less frequently following the revolutions of 1989). The point here is to note how much our societies are dependent upon the deeply ingrained tendencies of its citizens to obey rules and to generally do 'what is expected of them'.¹⁵ Liberals face a particular difficulty in that their theories - based, for example, on the overridingness of rationality or reasonableness - must be seen to justify themselves to the citizens who are to choose and live according to them. Liberal communities strive to be 'justificatory communities', where there exists amongst a set of people a norm (or set of norms) of comprehensive justification; an argument for a policy satisfies this requirement when it passes the

14 See the discussion in Scheffler 1992, especially p. 51; and Hurley 1989, pp. 211-12. See also, for example, Barry 1989, p. 291: 'impartiality (here Barry means specifically *justice as impartiality* and nothing more) comes in at the point where the principles are chosen. Whether or not it comes in at the point where they are applied depends on what the principles themselves prescribe. If the principles are agreed upon by normal human beings for normal human conditions we should surely expect them to prescribe impartiality in some contexts and to allow (or even mandate) partiality in others'.

15 A truism perhaps, but one nevertheless important to point out, as is done particularly in the works of Nagel, Scheffler, and Hurley all mentioned here, as well as by their predecessors examined in earlier chapters.

interpersonal test, that is, citizens are able to justify to one another their common institutions and thus encourage their 'ties of civic friendship'.¹⁶ I have argued that demandingness in itself is not a sufficient criticism, but this is not to say the problem of efficacy vanishes. My concern is a few steps back, as it were. If liberal moral argument (especially in its 'constructivist' forms) presupposes the capacities of judgement, imagination, moral sensitivity, and perception, and yet also accepts that moral motivation cannot be argued into existence from nothing, it must have an account of the conditions whereby people will be disposed to acquire the necessary motivation. Thus Charles Taylor is right (I think) when he writes that 'the free individual or autonomous moral agent can only achieve and maintain his identity in a certain type of culture' which does not 'come into existence spontaneously each successive instant'.¹⁷ The suspicion, though, is that the private and interpersonal attitudes cultivated by individuals in all their autonomy and particularity are at the same time capable of undermining the social and political attitudes upon which liberal theory depends in order to generate and maintain liberal outcomes. There is not the space to provide a detailed answer here, but the beginnings of one is surely to be found in the acceptance by contemporary argument - especially in its liberal Rawlsian and post-Rawlsian variants - of the need to take seriously the issue of character formation and acculturation, beyond the acceptance of conventional opinions about self-responsibility, and neo-classical economic assumptions about the exogenous character of preferences and preference formation. There has been an interesting convergence of sorts between many of the theorists examined in these pages as they have tried to articulate a justification of governmental power that was not directly coercive, explicitly manipulative, or repressively

16 Rawls 1971, p. 536. See the discussion by G.A. Cohen, 'Incentives, Inequality, and Community', *The Tanner Lectures on Human Values*, Cambridge and Utah, Cambridge University Press, 1992, pp. 282-285.

17 Charles Taylor, *Philosophy and the Human Sciences: Philosophical Papers 2*, Cambridge University Press, 1985, p. 205.

domineering, and which could act 'obliquely' with regard to adjusting certain background conditions to ensure that citizens would be capable of being (or at least becoming) good deliberators or 'reasonable' discussants.¹⁸ Once it is admitted that, preferences and the processes of human preference formation (the real content of liberal assumptions concerning choice) are not wholly explained by ascriptions of personal responsibility, but instead are seen to be shifting and endogenous, thus requiring one to look 'behind' choices, questions about appropriate background conditions and dispositions emerge more readily.¹⁹

Autonomy cannot be reduced to the satisfaction of private preferences, or the simple invocation of a natural capacity for individuals to pursue the good, or a preinstitutional capacity to organize and be wholly responsible for their preferences, but instead requires reference to the kinds of opportunities available and the nature of constraints relevant to preference formation, both of which might (and usually do) require some kind of governmental 'interference'.

It is important to note that nothing follows from these kinds of claims that necessitates the wholesale repudiation or replacement of liberal political argument or 'enlightenment values'. The fundamentally inclusive commitment to equality, which has come through ever so slowly in the history of our political and philosophical thought, is not something to be taken lightly, whatever the disagreements concerning its ultimate manifestation. Discussions of 'post-liberalism' are only interesting if this commitment is understood, and even then it is difficult to be convinced that moving beyond it is

18 See the discussion of Foucault and Raz above, and most recently James S. Fishkin, *The Dialogue of Justice*, New Haven and London, Yale University Press, 1992, especially pp. 162-177.

19 Rawls' discussion can be found in Rawls 1980, where he claims that people can be held responsible for their preferences (their tastes, aspirations, beliefs) because they are always open to modification (given their fair share of primary goods). For criticism of this 'heroic' attempt, and extended discussions of the whole issue see Cass R. Sunstein, 'Preferences and Politics', *Philosophy and Public Affairs*, 20, 1, 1991, pp. 3-34; G.A. Cohen, 'On the Currency of Egalitarian Justice', *Ethics*, 99, 1989, 906-44; and Brian Barry, 'Chance, Choice, and Justice', in B. Barry, *Liberty and Justice: Essays in Political Theory 2*, Oxford, Clarendon Press 1991, pp. 142-158.

any kind of answer to the aspirations it embodies, however much they have become frustrated in our far-from egalitarian world. And this brings us back to our discussion of civic republicanism. I have attempted throughout this thesis to undermine the traditional distinctions between our stock of political arguments in order to emphasize the plurality and richness at hand with regard to our political imagination. This claim remains woolly unless placed in specific contexts. My claim is that the more we think hard about the reasons for the appalling asymmetry between our moral and political values and the cruel immoralism of our own and distant societies, the more we will find ourselves returning to questions of our own - both individual and social - capacities for deliberation, and the means to actualize our aspirations of modern liberty. But here is the catch. It would seem that we are learning (or at least re-learning) more about the importance of providing the resources and conditions for the development of an individual self-esteem and self-respect as a necessary precondition of an activist political culture, but we have yet to theorize an accompanying *conception* of modern liberty, beyond the entrenchment of our rights of private enjoyment and self-expression. Here the distinction drawn more than a century ago by Benjamin Constant, between ancient and modern liberty (and restated in this century by Isaiah Berlin), singularly fails us, for it is hard to recognize the possibilities of new forms of individual and political agency in the restatement of a nineteenth century belief in maintaining the security and independence to which citizens had by then become accustomed. Now that the conditions for anyone's security and independence - one's autonomy - are necessarily entwined with one's ability to develop the requisite capacities in the context of a society organized such that everyone will have the equal chance to do the same, our sense of 'modern' liberty must be supplemented with new (or restated) sensitivities. Here again our conventional distinctions fail us, since any reference to 'ancient' liberties is misleading beyond the

superficial sense that nothing is ever wholly new in political theory (or comes from nowhere). Civic republican traditions of collective deliberation and the importance of cultivating the appropriate political 'style' in fulfilling one's role and duties to the republic as a means of securing not only its independence and glory, but one's own individual liberty, is a salutary lesson. But I think any examination of civic republicanism should be less a matter of seeing how we can reconcile its institutions of public discourse and citizenship with our dogmatic insistence on the protection of our 'modern' liberties, and more one of understanding the nature of its 'transformative' practices at both a collective and individual level.²⁰ The lessons here are often ominous; the kind of conformity and entrenched social hierarchy which large scale civic projects (whether in fourteenth and fifteenth century Italian city-states, or twentieth century East Germany) are capable of producing is never far from the surface. There are also dangers in extending the possibilities of government and collective action beyond conventional categories of political argument, in that there is a possibility for new forms of power and relations of domination to emerge, as we learn, for example, from the provocative work of Michel Foucault. And yet this is never the whole story, nor should it be left to the anti-liberal and anti-republican elements of modern politics to colonize the debate over the importance of acculturation and the background conditions of an activist and engaged political culture.

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The question here is not just one of distributing self-esteem or a participatory ethic as if they were part of a basket of basic goods to which everyone was entitled, but rather in creating the conditions under which people will be motivated to act in such a way beyond the possibilities of simply self-interested mutual advantage. I believe this

20 Cf for different views than being argued for here; Philip Pettit, 'The Freedom of the City: A Republican Ideal', in Alan Hamlin, Philip Pettit eds., *The Good Polity: Normative Analysis of the State*, Oxford, Basil Blackwell, 1989, pp. 141-168; Maurizio Viroli, *From Politics to Reason of State: The acquisition and transformation of the language of politics 1250-1600*, Cambridge University Press, 281-295 ('Epilogue'), especially at pp. 291-2.

can only come as a result of a society organized to provide the means for individuals to participate in deliberations with a real impact on their everyday lives. Participation should not be valued simply as a means of ritualistic self-expression, i.e. for the comfort and aid of the politics of 'the beautiful people - the radical chic of the Boston-Washington corridor and the London - Oxbridge triangle' - but as a means of achieving the important work of government (housing, education, health, etc.) from which the real educational and transformative qualities of politics is derived.²¹ Practices grounded in the recognition of reciprocity and dependency, and those facilitating mutual voluntariness, perhaps provide the clues to understanding the transformative possibilities of modern political relations. This needs to be filled out much more, but I can do no more than admit this here.²²

Philosophers and theorists are at last thinking seriously about trying to explain the apparent failure of liberal political theory to make the practical political impact it seeks in all of its normative and analytical pretensions. According to some, philosophical liberalism fails to make an impact because it cannot accept the idea of pre-institutional desert and personal responsibility so broadly accepted by most ordinary citizens; whatever the merits of this conventional belief, it is argued that this is a substantial difference between theory and reality which cannot be wished away.²³ Relatedly, another explanation is that,

21 See the discussion in Jon Elster, *Sour Grapes: Studies in the Subversion of Rationality*, Cambridge and Paris, Cambridge University Press, pp. 91-100 (quoting Barry on Benn).

22 See the interesting practical suggestions towards this end in Fishkin 1992, pp. 193-203.

23 This stems from the critique of Rawls' argument where he claims that it is one of the 'fixed points' of our considered judgements that 'no one deserves his place in the distribution of native endowments any more than one deserves his initial starting point in society', and thus that the better endowed do not deserve the greater economic advantages their endowments might enable them to gain under any possible set of institutional arrangements. In short, the principles of justice do not mention moral desert; they are not to be organized such that people 'get what they deserve'. See Rawls 1971, pp. 104, 105, 311. This is a standard complaint made against Rawls by people such as MacIntyre, Taylor, Sandel, Nozick, and countless conservative critics. For a nuanced discussion of the whole issue and the claim that 'philosophical liberalism's' inability to convince on this is one reason why political liberalism (at least in the United States) has suffered so, see Samuel Scheffler, 'Responsibility, Reactive Attitudes, and Liberalism in Philosophy and Politics', *Philosophy and Public Affairs*, 21, 4, 1992, pp. 299-323. For a robust rejection of the plausibility of any role for desert in contemporary liberal theory see B. Barry, *Political Argument* (Reissue

whereas liberal theories of justice have incorporated the theoretical sophistication of modern academic economics, they have done so without any accompanying sense of the reality of the workings of contemporary economies themselves; 'the assignment of natural goods and...the products of historically developed human powers as answerable to at least the needs of all living humans [and even future generations or other sentient beings] is a plausible precondition for any rationally defensible theory of ownership. But it is grimly distant, both imaginatively and practically, from the gritty and confused setting in which actual conflicts over ownership, use or enjoyment actually occur'.²⁴ Both of these explanations are plausible, though massively incomplete, and probably misdirected. Given the deep hostility that egalitarian liberalism has towards entrenched economic inequality and injustice, and its overarching concern to justify its social architecture and mechanisms of distribution to its citizens for good reasons rather than on the basis of any pre-institutional sense of individual worth or desert, I can see no reason for it to conform to conventional injustices simply because conservative critics happen to be coddling the prejudices of modern liberal democratic societies. But I agree that there is a problem when it comes to efficacy, though my suggestion is that it lies a few steps back. The importance of understanding the conditions for the development of a liberal moral psychology and disposition has perhaps already been made evident by Mill, though I would argue it is a lesson we have missed in recent years as the battle lines have been drawn (too easily) between liberals, republicans, and 'post-modernists'. I believe that contemporary political theorists are beginning to appreciate this fact, and I can do no better than point to a recent contribution by G.A. Cohen as proof of what I mean. In discussing Rawls' difference principle - one attempt at generating the

with a new Introduction), Harvester Wheatsheaf, 1990, pp. lvi-lxiv.

- 24 John Dunn, 'Property, justice, and common good after socialism', in John A. Hall and I.C. Jarvie eds., *Transition to Modernity: Essays on Power, wealth, and belief*, Cambridge, Cambridge University Press, 1992, p. 283.

sense of reciprocity and mutual voluntariness I mentioned above - Cohen writes that the 'strict' difference-principle (i.e. counting inequalities as necessary only when they are strictly necessary) cannot be implemented by government on its own:

For the strict difference principle to prevail, there needs to be an ethos informed by the principle in society at large. Therefore a society (as opposed to its government) does not qualify as committed to the difference principle unless it is indeed informed by a certain ethos, or culture of justice. Ethoses are, of course, beyond the immediate control of legislation, but I believe that a just society is normally impossible without one...one function of the egalitarian ethos is to make conscious focus on the worst off unnecessary. What rather happens is that people internalize and - in the normal case - they unreflectively live by, principles which restrain the pursuit of self-interest and whose point is that the less fortunate gain when conduct is directed by them.²⁵

This concern for the role of acculturation in the making of political argument has a long lineage beyond late-twentieth century debates about liberalism, as I have tried to show in the pages above. Perhaps one reason why it has remained relatively submerged in recent years stems from the way a concern for self beyond autonomy has come to be associated with either the monism of teleological theories (i.e. fulfilling the conditions to become some 'higher self'), or the solipsism of a 'cultivation of self' without concern for others. This is best summarized in John Rawls' characterization of 'perfectionism', which he associates closely with the kind of doctrines we find in Aristotle and Nietzsche. Rawls is worried - especially with regard to the latter - about the idea of a standard of human excellence being used to justify a certain economy in the distribution of liberty, that to acknowledge an agreed criterion of 'perfection' as a principle for choosing institutions would be to 'accept a principle that might lead to a lesser religious or other liberty, if not to a loss of freedom altogether, to advance many of one's spiritual ends'.²⁶ But the discussion up to now has been concerned with the issue of the *exercise* of this liberty in relation to the legitimate demands of others and one's society as a whole. And here the language of perfection sits oddly with the task of formulating the grounds for a 'liberal discipline' of sorts, the means to provide citizens

²⁵ Cohen 1992, pp. 315-6.

²⁶ Rawls 1971, p. 327; for the discussion of perfectionism generally see pp. 325-332.

with the capacities and resources to exercise their political agency in a reflective and deliberative way. For what could be more imperfect than our attempt as human beings - occupying all the different roles and duties we must in the context of our own messy world - to come up with the mechanisms to rouse our most deeply held aspirations of justice and freedom?

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